



FREDONIA

STATE UNIVERSITY OF NEW YORK

**IFB #
T000338**

Full Service Elevator Maintenance

Dated: November 13, 2019

Responses Due:

December 10, 2019 at 2:00 PM EDST

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Forms

SUMMARY INFORMATION FORM

THIS PAGE MUST BE SIGNED AND RETURNED WITH BIDDER'S RESPONSE

IFB #: T000338	IFB Title: Full Service Elevator Maintenance	IFB Release Date: November 13, 2019
Key Events		
Site Visit	By appointment – Please contact the Technical Contact	
Notice of Intent to Bid Due (if applicable)	N/A	
Proposal Due Date and Time	Tuesday, December 10, 2019 @ 2:00 PM EDST	
Anticipated Notification of Award	December 16, 2019	
Anticipated Contract Start Date	February 1, 2020	
Anticipated Term Length of Contract	3 Years, with 1 additional 1-year renewal	
<i>SUNY reserves the right, in its sole discretion, to modify the above schedule. Bidders will be notified via email of any changes in a timely manner</i>		
Contact Information		
Primary Contact: Soteris Tzitzis 405 Maytum Hall 280 Central Ave. Fredonia, NY 14063 (716) 673-3257 univserv@fredonia.edu	Secondary Contact: NONE	Other Contact (Technical): Tim Bentham, Facilities Services 280 Central Ave. Fredonia, NY 114063 (716) 673-3452 Timothy.Bentham@fredonia.edu
Restricted Period		
In accordance with the requirements of New York State Finance Law Sections 139j and 139k ("Lobbying Law"), the restricted period for this procurement is now in effect. Therefore, all communications regarding this procurement must be handled through the State University of New York's designated contacts only.		
Bidder Information		
Legal Business Name of Company Bidding:	Bidder's Federal Tax Identification Number:	
D/B/A – Doing Business As (if applicable):	NYS Vendor ID Number (See Exhibit B, Section 16):	
Street Address:	City/State:	Zip Code:
If applicable, place an "x" in the appropriate box: <i>(check all that apply)</i>		
<input type="checkbox"/> Small Business (if checked, provide # of employees ____) <input type="checkbox"/> Minority Owned Business (NYS Certified) <input type="checkbox"/> Disabled Veteran Owned Business <input type="checkbox"/> Women Owned Business (NYS Certified)		
If you are not bidding, place an "x" in the box and return this page only. <input type="checkbox"/> We are unable to bid at this time because:		
Bidders Signature:		Title:
Printed Name:		Date:

THIS PAGE MUST BE SIGNED AND RETURNED WITH BIDDER'S RESPONSE

Section 1: OVERVIEW

The State University of New York College at Fredonia (SUNY Fredonia) is located in Chautauqua County, New York. The campus is approximately 1 hour from Buffalo New York. The campus consists of 782 acres with 75 buildings, including 10 residence halls. There are approximately 2,500 students that live on the SUNY Fredonia campus during the semester.

The State University of New York ("SUNY") is the largest comprehensive university system in the United States, educating more than 467,000 students in more than 7,500 degree and certificate programs on 64 campuses with nearly 3 million alumni around the globe. SUNY is committed to reduce administrative costs, maximize efficiencies and move resources toward academics and student services.

Section 2: PROJECT SPECIFICATIONS

A. Scope of Services

SUNY Fredonia is seeking a responsive and responsible contractor to provide full service elevator maintenance to SUNY Fredonia's 36 elevators located in various buildings across the campus.

B. Technical Specifications

Full elevator maintenance services (described in Attachment 9 – Detailed Specifications) for SUNY Fredonia's 36 elevators located on campus (described on **Attachment 5**). Additional Services may be required from time to time. Emergency Callback Service must be provided by the Contractor who shall provide 24-hour-a-day, 7 days-a-week, emergency callback service, at no added cost to SUNY Fredonia, under which a journeyman elevator mechanic will report to the site of the emergency when requested by the SUNY Fredonia Representative or those persons designated by the SUNY Fredonia Representative, in accordance with the following schedule:

- a. Within one (1) hour after receipt of request for any stalled elevator with trapped passengers, or any elevator designated in the contract as being essential to the facilities operation. Attachment 5 designates if an elevator is classified as essential or non-essential.
- b. Within the first two (2) regular work hours of the next regular working day for any other elevators covered by this contract.

Please note, the only situation that SUNY Fredonia would be responsible for paying the premium portion of overtime wages is if passengers are trapped, during other than normal working hours, in an elevator that is not designated as essential.

The Contractor is to provide a fixed price for full service maintenance work on the elevators which shall include all per diem expenses, testing, adjustments, repairs, lubrication, etc. (described in **Attachment 9 – Detailed Specifications**).

Bidder(s) shall provide a monthly and annual fixed maintenance cost for each elevator identified on **Attachment 8**. In addition, bidder's must provide a "time and materials" cost for any repairs not covered under the Full Service Contract. Since this is a full service contracts as specified herein, such repairs would be limited to vandalism, fire, acts of God, negligence by the State, or other unusual circumstances.

The time and materials portion of the bid shall be computed as follows: for the **Time Charge** multiply the percent markup over the current prevailing wage rate plus supplemental benefits at the time of the bid, by the estimated number of hours that will be required; and, for the **Materials Charge** multiply the percent markup over the Contractor's cost for parts and materials by the estimated total dollar value of materials and parts that may be required. **These are estimated figures only and the Contractor will be paid only for the actual time and/or materials that are utilized, whether more or less than the estimate amounts. However, the Contractor's percent markup bids will remain constant.**

C. Method of Award

This IFB is part of a competitive procurement process designed to serve the best interests of the State University of New York and the People of the State of New York. It is also designed to provide all bidders with a fair and even opportunity to have their services considered. SUNY will conduct a comprehensive review of each responsive bid submitted in accordance with the terms of this IFB. IFB Proposals will be evaluated on the basis of "Lowest Cost meeting all specifications" by an evaluation committee comprised of SUNY representatives, and shall be conducted in the following steps:

1. **Administrative Review**

Each bid received by the due date and time will be screened for completeness of submission in accordance with Section 4, Bid Submission Requirements.

2. **Review of Bidder Qualifications**

Each bid remaining after the Administrative Review will be advanced to the evaluation committee for determination of whether Bidder has met the requirements of Section 3, Bidder Qualifications.

3. Technical Evaluation

Each bid remaining after review of Bidder Qualifications will advance for review by the evaluation committee.

4. Financial Evaluation

The Financial Proposals of each bid remaining after the Technical Evaluation will be independently evaluated and scored by the designated contract officer.

5. Selection

Proposals will be evaluated on the basis of "Lowest Cost meeting all specifications" of this bid.

The Bidder earning the lowest cost will be selected to contract with SUNY FREDONIA and will be notified by SUNY FREDONIA. Tentative award of the contract shall consist of written notice of the contract award by SUNY FREDONIA to the successful bidder, who shall thereupon be obligated to execute a formal contract.

Section 3: BIDDER QUALIFICATIONS

A. Minimum Bidder Qualifications

Bids will only be accepted from vendors that have previous experience in providing elevator maintenance services. SUNY reserves the right to investigate or make any inquiry into the capabilities of any Bidder to properly perform under any resultant contract.

B. Bidder References

All Bidders must complete and submit Attachment 2: **Bidder Qualifications Submission Form**. Provide a minimum of three (3) references from other universities, colleges, or similar-sized organizations. The references should demonstrate the bidder's ability with projects similar in scope, size and nature of this IFB. Provide a list of accounts where a contract was terminated by the customer within the past 10 years for cause.

Section 4: BID SUBMISSION REQUIREMENTS

A. Bid Submission Requirements

1. A Bidder's proposal shall address the Bidder's ability and methodology for providing SUNY with the requested services. To be deemed "responsive" to this IFB, a Bidder must meet all mandatory requirements and qualifications and its written proposal must address all points and questions appearing in this IFB. In the event a Bidder's proposal is determined by SUNY to be "non-responsive," SUNY is required by its contracting procedures to disqualify the proposal. A disqualified proposal will not be further evaluated or considered for contract award. To facilitate SUNY's review of proposals, Bidders must address all points and questions that appear in this IFB, and should do so in the order that they appear. Responses should be labeled to correspond to the numbers/letters of the sections and subsections of this IFB.
2. Prepare a clearly readable proposal that includes: (a) a cover letter indicating that the IFB instructions are understood, and (b) all required information.
3. Bidders must submit all information requested by SUNY in written form. Proposals must be complete, accurate, and in the form requested. Omissions, inaccuracies or misstatements will be sufficient cause for the rejection of a proposal.
4. Indicate any deviations from the technical specifications and if necessary, attach separate documents and/or explanation.
5. Proposals should be submitted in sealed packages clearly labeled on the exterior with the IFB number and title. Proposals not labeled as instructed risk being opened prior to the bid opening date, which may result in the proposal being rejected. All bids and accompanying documentation shall become the property of SUNY and shall not be returned.
6. No telephone, facsimile, emailed or otherwise electronically submitted proposals will be accepted.
7. The proposal must be fully and properly executed by an authorized person, and the authorized person's signature must be notarized. By signing, you certify (i) your express authority to sign on behalf of yourself, your company, or other entity; (ii) your full knowledge and acceptance of this IFB, Exhibit A (State University of New York Standard Contract Clauses), Exhibit A-1 (State University of New York Affirmative Action Clauses), State Finance Law §139-j and §139-k (Procurement Lobbying Certification); and (iii) that all information provided is complete, true and accurate. By signing you further affirm that you understand and agree to

comply with the procedures on permissible contacts relating to this procurement as required by State Finance Law §139-j (3) and §139-j (6) (b). These procedures may be accessed at: Procurement Lobbying:
<http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>

8. Submit **two (2) original signature** hard copies and **three (3)** copies of your proposal to the address provided below. Proposals must be received in the office identified below by the due date and time provided on the Summary Information Form on Page 4 of this IFB. Bidders mailing their proposals must allow sufficient time to ensure receipt by the due date and time. Bidders are cautioned that even when using a trackable mailing/courier/messenger service, proposals must be received by the due date and time. While proposals may be signed for by personnel at SUNY prior to the due date and time, this does not guarantee that the identified office will receive the proposal by the due date and time.

9. Address for submission of proposal:

Soteris Tzitzis, Director University Services
SUNY Fredonia
Office of University Services
405 Maytum Hall
280 Central Ave.
Fredonia, NY 14063

10. Bidders unable or unwilling to submit a proposal are asked to complete the Summary Information Form on Page 4 of this IFB and check the box indicating that no bid is being submitted.

11. All prices and conditions must be included in the original proposal. Prices and conditions not included in the original proposal will be rejected.

12. Bidders must identify the name and address of all proposed subcontractors and describe the portion of the work that the proposed subcontractors are to perform. Bidders must also provide information that the proposed subcontractors have the necessary skill, experience and financial resources to provide the services requested in this IFB.

13. The submission of a proposal constitutes a non-revocable, binding offer to perform and provide said services. Such binding offer shall be firm and not revocable for a period of ninety (90) days from bid opening. After ninety (90) days, the proposal may remain in effect, subject to withdrawal communicated in writing signed by the Bidder. If this IFB is for the sale of goods pursuant to §2-205 of New York State Uniform Commercial Code, the proposal shall be firm, binding and not revocable for a period of ninety (90) days.

14. Bidder is responsible for all costs that it incurs, direct or indirect, related to the preparation and submission of a proposal in response to this IFB.

15. Each copy of the proposal must be accompanied by the following:

- Summary Information Form (page 1 of this IFB)
- Notary Acknowledgement Form (page 19)
- Attachment 1: Bid Submission Checklist and the documents indicated thereon.
- Attachment 2: Bidder Qualifications Submission Form
- Attachment 3: Procurement Lobbying Act Certification
- Attachment 4: Non-Collusive Bidding Certification
- Attachment 8: Pricing Sheet
- Vendor Responsibility Documentation as set forth in Section 5(17).
- Minority and Women-Owned Business documentation as set forth in Section 5(11).
- Equal Employment Opportunity documentation as set forth in Section 5(12).

B. Site Visit

All potential bidders must attend a MANDATORY site visit. A site visit is scheduled for November 25, 2019 at 10:00 AM. Location for the start of the site visit is the Facilities Services Office, conference room, located in the Services Complex.

C. Bid Opening

Bidders may attend the bid opening, at which a SUNY representative will publicly announce the names of Bidders who have submitted proposals. To ensure adequate space for attendees, Bidders must notify the designated contact(s) identified on the Summary Information Form (Page 1 of this IFB) of their desire to attend the bid opening.

Section 5: GENERAL INFORMATION

A. Electronic IFB

Electronic copies of this IFB and related forms are available via email and can be requested by contacting: univserv@Fredonia.edu.

B. SUNY'S Reserved Rights

SUNY reserves the right to:

1. Reject any and all proposals received in response to this IFB.
2. Reject any or all portions of any proposal, to negotiate terms and conditions consistent with this IFB and to make an award for any or all remaining portions.
3. Withdraw the IFB at any time, at SUNY's sole discretion.
4. Make an award in whole or in part.
5. Disqualify any Bidder whose conduct and/or proposal fails to conform to the requirements of the IFB.
6. Use proposal information obtained through site visits, management interviews and the state's investigation of a Bidder's qualifications, experience ability or financial standing, and any material or information submitted by the Bidder in response to SUNY's request for clarifying information, in the course of evaluation and/or selection under the IFB.
7. Prior to the bid opening, amend the IFB specifications to correct errors of oversights, or to supply additional information, as it becomes available.
8. Request certified audited financial statements for the past three (3) completed fiscal years and/or other appropriate supplementation including, but not limited to, interim financial statements and credit reports.
9. Request references and contact any or all references.
10. Adjust or correct cost or cost figures with the concurrence of the Bidder if mathematical or typographical errors exist.
11. Advise the Successful Bidder of an objectionable employee(s) and/or subcontractor(s).
12. Waive minor irregularities.
13. Waive requirements or amend this IFB upon notification to all Bidders. Mandatory requirements may be eliminated if unmet by all Bidders.
14. Negotiate with Bidders responding to this IFB within the requirements necessary to serve the best interests of SUNY.
15. Begin contract negotiations with another Bidder in order to serve the best interests of SUNY should contract negotiations with the Successful Bidder be unsuccessful within a time frame acceptable to SUNY.
16. Request clarifications from Bidders for purposes of assuring a full understanding of responsiveness, and permit revisions from all potential awardees prior to award.
17. Award no contract.

C. Contract Award

Receipt of this IFB does not indicate that SUNY FREDONIA has predetermined Bidder's qualifications to receive a contract award. A contract award, if made, shall be based on evaluation of the bid in accordance with the criteria set forth in this IFB. The successful Bidder will be notified in writing by SUNY FREDONIA.

D. Post Award Procedures

Bidders wishing to participate in a debriefing may make a request in writing within 5 business days of SUNY's notification of the contract award. The written request shall be submitted to the email address specified for Questions and Answers in this IFB. SUNY

will endeavor to schedule a debriefing within 10 business days of its receipt of the request. Bidders' written request must state whether Bidder will be attending with counsel, to allow SUNY to arrange for SUNY counsel attendance if so determined. Bidders wishing to file a bid protest may do so in accordance with SUNY's procedures, available at:

http://www.suny.edu/sunypp/documents.cfm?doc_id=699.

Section 6: GENERAL TERMS AND CONDITIONS

1. Free and Open Competition

SUNY encourages free and open competition. Whenever possible, terms, specifications, and conditions are designed to accomplish this objective, consistent with the necessity to satisfy SUNY's needs.

2. Notification of Errors, Inquiries and Interpretation

Bidder is responsible to bring to SUNY's attention any deviations in the technical specifications and to make recommendations for any additional requirements deemed necessary as standard, or for work indicated in the specifications contained in this IFB. If SUNY FREDONIA in its discretion finds the deviations to be significant so as to require a change in the necessary specifications for the work, SUNY FREDONIA will notify all Bidders in writing of the change in specifications. No deviations from the technical specifications provided herein shall be made without written approval of SUNY FREDONIA.

3. No Claims or Rights

By submitting a proposal, Bidder agrees that it will not make any claims for, or have any right to damages because of any misinterpretation or misunderstanding of the specifications or because of any misinformation or lack of information.

4. Conflict of Interest

Bidder may be requested to provide evidence that the award of a contract will not result in (i) a conflict of interest with regard to other work performed by Bidder; or (ii) a potential conflict of interest among Bidder's staff.

5. Bidder's Terms and/or Conditions

Bidder's standard terms and conditions will not be considered relevant to its proposal or to the contract awarded and should not be included with its proposal. Any additional Bidder terms and conditions attached to or referenced in Bidder's proposal shall not be considered part of the proposal, but shall be deemed included for informational purposes only. No extraneous terms or conditions will be incorporated into the contract awarded unless approved in writing by the SUNY Office of General Counsel. Acceptance and/or processing of a Bidder's proposal shall not constitute acceptance of a Bidder's extraneous terms and conditions.

6. Acceptance of IFB Content

The terms and conditions included in this IFB as well as the applicable portions of Bidder's proposal shall become contractual obligations if a contract is awarded. **BIDDER'S FAILURE TO ACCEPT THESE TERMS AND CONDITIONS AND OBLIGATIONS SHALL RESULT IN REJECTION OF BIDDER'S PROPOSAL.**

7. Services Outside Scope of the Contract Awarded

SUNY shall not be responsible for any services provided by the successful Bidder that are outside the scope of the contract awarded. SUNY shall not be responsible for any additional costs other than the costs for the services outlined herein, or for any work performed that has not been properly authorized in writing by SUNY.

8. Standard Contract Clauses

Any contract awarded resulting from this IFB shall include Exhibit A (State University of New York Standard Contract Clauses) and, for contracts in excess of \$25,000, Exhibit A-1 (State University of New York Affirmative Action Clauses). The provisions of Exhibit A and Exhibit A-1 shall take precedence over any provision in this IFB or any provisions in the contract awarded. Exhibits A and A-1 are attached to this IFB.

9. Binding Effect

The contract awarded shall be binding upon its execution by both parties and, if required by New York State law, upon the written approvals of the Attorney General and the Office of the State Comptroller.

10. Confidentiality/Freedom of Information Law

All proposals submitted for SUNY's consideration will be held in confidence and will become the property of SUNY. However, the resulting contract is subject to the New York State Freedom of Information Law (FOIL), contained in Article 6 of the New York State Public Officer's Law. Therefore, if a Bidder believes that any information in its proposal constitutes a trade secret, should be treated as confidential and should not be disclosed upon a request pursuant to FOIL, Bidder shall submit with its proposal a separate letter

addressed to: *Amy Beers, Director of Internal Control, SUNY Fredonia, 407 Maytum Hall, 280 Central Ave., Fredonia, NY 14063*, specifically (i) identifying the page number(s), line(s) or other appropriate designation(s) containing such information; (ii) explaining in detail why such information is a trade secret or confidential; and (iii) formally request that such information be held as confidential. Bidder's failure to submit such a letter with its proposal will constitute a waiver by the Bidder of any rights it may have under Section 89(5) of the Public Officers' Law relating to protection of trade secrets. The proprietary nature of the information designated confidential by the Bidder may be subject to disclosure if ordered by a court of competent jurisdiction. A request that an entire proposal be kept confidential is not advisable, because a proposal cannot reasonably consist exclusively of proprietary information.

11. Minority and Women-owned Business Enterprises (MWBE)

Pursuant to New York State Executive Law Article 15-A, SUNY recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority- and women-owned business enterprises and the employment of minority group members and women in the performance of SUNY contracts.

For purposes of this solicitation, SUNY hereby establishes an overall goal of **30%** for MWBE participation, **15%** for Minority-Owned Business Enterprises ("MBE") participation and **15%** for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). For additional information please refer to the MWBE requirements outlined in MWBE Prospective Bidder's Notice ([Form 7557-121](#)).

Please note the response forms identified in Form 7557-121 (SUNY MWBE Forms 104 & 107) must be submitted with all Bids. Forms are available in SUNY Procurement Policies and Procedures Document 7557 online at:

http://www.suny.edu/sunypp/documents.cfm?doc_id=611

12. Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Bidder agrees with all of the terms and conditions of SUNY Exhibit A-1 including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

Bidder further agrees, where applicable, to submit with the bid an EEO staffing plan (utilizing MWBE form 108) to identify the anticipated work force to be utilized on the Contract. Forms are available in SUNY Procurement Policies and Procedures Document 7557 online at: http://www.suny.edu/sunypp/documents.cfm?doc_id=611. If the Bidder is awarded a Contract, Bidder will, upon request, submit to SUNY, a workforce utilization report identifying the workforce actually utilized on the Contract if known. Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

In addition, Bidder must submit with their bid or proposal their firm's Equal Employment Opportunity Policy Statement (which conforms to the provisions of Exhibit A-1); utilizing (utilizing MWBE Form 104). Forms are available in SUNY Procurement Policies and Procedures Document 7557 online at: http://www.suny.edu/sunypp/documents.cfm?doc_id=611. Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

13. Encouraging Use of New York State Businesses in Contract Performance

New York State businesses have a substantial presence in SUNY contracts and strongly contribute to the economies of New York and the nation. In recognition of their economic activity and leadership in doing business in New York State, Bidders/Proposers/Contractors for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Bidders/Proposers/Contractors need to be aware that to the maximum extent practical and consistent with legal requirements, they are strongly encouraged to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, Bidders/Proposers/Contractors are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law. Utilizing New York State businesses in SUNY contracts will help create more private sector jobs, rebuild New York's infrastructure, and maximize economic activity to the mutual benefit of the Contractor and its New York State business partners. New York State businesses will promote the contractor's optimal performance under this contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its Contractors. SUNY therefore expects Bidders/Proposers/Contractors to provide maximum assistance to New York businesses in their use of the contract. The potential participation by all kinds of New York businesses will deliver great value to New York State and its taxpayers.

Bidders/Proposers can demonstrate their commitment to the use of New York State businesses by responding to the question below:

Will New York State Businesses be used in the performance of this contract? (YES ___ NO ___)

If **YES**, identify New York State Business(es) that will be used. (Attach identifying information, e.g., contact information, dollar value of the subcontract or supply contract.)

14. Office of Federal Contract Compliance Programs

This Contractor and Subcontractor shall abide by the requirements of 41 C.F.R. §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

15. Determination of Vendor Responsibility

New York State procurement law requires that state agencies award contracts only to responsible contractors. Additionally, the New York State Comptroller must be satisfied that a proposed contractor is responsible before approving a contract award under Section 112 of the State Finance Law. Section 163 of the New York State Finance Law ("SFL") requires that contracts for services and commodities be awarded on the basis of lowest price or best value "to a responsive and responsible bidder." Section 163 (9)f of the SFL requires that prior to making a contract award, each contracting agency shall make a determination of responsibility of the proposed contractor.

In accordance with these procurement laws, SUNY will conduct an affirmative review of vendor responsibility for all organizations or firms with which it conducts business. In doing so, bidders are required to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the VendRep System, see the VendRep System Instructions on the Office of State Comptroller (OSC) website, available at: www.osc.state.ny.us/vendrep or go directly to the VendRep System online at <https://portal.osc.state.ny.us>. For VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us. Bidders opting to file a paper questionnaire may obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact SUNY System Administration for a copy of the paper form.

In addition:

- a. *General Responsibility.* The Contractor shall at all times during the contract awarded term remain responsible. The Contractor agrees, if requested by the SUNY Chancellor or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
- b. *Suspension of Work for Non-Responsibility.* The SUNY Chancellor, in his or her sole discretion, reserves the right to suspend any or all activities under the contract awarded, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the SUNY Chancellor or his or her designee issues a written notice authorizing a resumption of performance of the contract awarded.

c. *Termination for Non-Responsibility.* Upon written notice to the Contractor and a reasonable opportunity to be heard with appropriate SUNY officials or staff, the contract awarded may be terminated by the SUNY Chancellor or his or her designee at the Contractor's expense, where the Contractor is determined by the SUNY Chancellor or his or her designee to be non-responsible. In such event, the SUNY Chancellor or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

16. Requirements of New York State's Recycling Program

In accordance with the provisions of Section 165(3) of the State Finance Law and Executive Order No. 142, SUNY is required to purchase recycled products, if available, made with recycled content in accordance with rules and regulations established by the State Department of Environmental Conservation in development of that agency's Recycling Emblems Program. If the cost of a recycled product does not exceed by 10% the cost of a product made without recycled content (or by 15% if over 50% of the recycled materials are generated from the New York State waste stream), the recycled product must be purchased.

17. State Consultant Services Reporting

State Finance Law Sections 8 and 163 require that Contractors annually report certain employment information to the contracting agency, the Department of Civil Service and Office of the State Comptroller. State contractors are required to disclose, by employment category, the number of persons employed to provide services under a contract for consulting services, the number of hours worked and the amount paid to the contractor by the State as compensation for work performed by these employees. This will include information on any persons working under any subcontracts with the State contractor.

18. Electronic Payment Authorization

Contractor shall provide complete and accurate billing invoices to SUNY in order to receive payment for its services. Billing invoices submitted to SUNY must contain all information and supporting documentation required by SUNY and the Office of State Comptroller (OSC). Payment for invoices submitted by Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Vice Chancellor for Business and Finance of the State University of New York or designee, in her/his sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary New York state procedures and practices. Contractor shall comply with the OSC procedures to authorize payments. Authorization forms are available at the OSC website at www.osc.state.ny.us/epay, by email at epunit@osc.state.ny.us or by telephone at 518-474-4032. Contractor acknowledges that it will not receive payment on any invoices submitted under this contract if it does not comply with the OSC's electronic payment procedures, except where the Vice Chancellor or designee has expressly authorized payment by paper check as set forth above.

19. Timeliness of Payment and Interest

Interest for late payment shall be governed by Section 179g of New York State Finance Law.

20. Exhibits

The following documents will be incorporated into, and made part of, the contract awarded:

- a. Exhibit A, State University of New York Standard Contract Clauses
- b. Exhibit A-1, State University of New York Affirmative Action Clauses (for contracts valued at greater than \$25,000)
- c. The Agreement (Contract)
- d. Exhibit B, the IFB # T000338
- e. Exhibit C, the Successful Bidder's proposal and Statement of Work
- f. Exhibit D, the Procurement Lobbying Act Certification

In the event of any inconsistency in or conflict among the document elements described above, such inconsistency or conflict shall be resolved by giving precedence to the document elements in the order set forth above.

21. Independent Contractor

The Successful Bidder (Contractor) and its agents or employees or any entity or person acting on behalf of the Contractor engaged in the performance of work shall at all times be deemed to be performing as independent contractors. The Contractor hereby covenants and agrees to act in accordance with that status. The Contractor and its agents or employees or any entity or person acting on behalf of the Contractor shall neither hold themselves out as, nor claim to be, officers or employees of SUNY and shall make no claim for, nor be entitled to, Workers' Compensation coverage, medical and unemployment benefits, social security, or retirement membership benefits from SUNY.

22. Subcontracting

In the event the Successful Bidder (Contractor) uses partners, subcontracts or subcontractors, the Contractor will remain responsible for compliance with all specifications and performance of all obligations under the contract resulting from this IFB. For the resulting agreement, the successful bidder will be the prime contractor.

Within thirty (30) calendar days after Notice of Award, the Successful Bidder must submit a written statement to SUNY giving the name and address of all proposed subcontractors. The statement must contain a description of the portion of the work and materials which the proposed subcontractors are to perform and must furnish any other information to document that the proposed subcontractors have the necessary facilities, skill, integrity, past experience and financial resources to perform the work in accordance with the terms and provisions of the contract.

If SUNY finds that the proposed subcontractors are qualified, it will so notify the Contractor within ten (10) business days following receipt of Contractor's written statement described above. If SUNY determines that a subcontractor is not qualified, it will so notify the Contractor. The Contractor must, within ten (10) business days thereafter, submit a written statement as described above with respect to other proposed subcontractors, unless the Contractor decides to do such work itself and in SUNY's opinion is qualified to do such work.

SUNY's approval of a subcontractor shall not relieve the Contractor of any of its responsibilities, duties and liabilities under the contract. The Contractor shall be solely responsible to SUNY for the acts, omissions or defaults of such subcontractors and of such subcontractors' officers, agents and employees, each of whom shall, for this purpose, be deemed to be the agent or employee of the Contractor to the extent of its subcontract. No provisions of the awarded contract shall create or be construed as creating any contractual relation between SUNY and any subcontractor or sub-subcontractor or with any person, firm or corporation employed by, contracted with or whose services are utilized by the Contractor.

The Contractor shall be fully responsible for the administration, integration, coordination, direction and supervision of all of its subcontractors and of all work. Contractor shall check requirements of the work and coordinate and adjust as required so that conflicts in time, work space, equipment and supplies do not occur in the work being performed by the Contractor with its own employees and the work being performed by its subcontractors.

No subcontractor shall be permitted to work until it has furnished satisfactory evidence to SUNY of the insurance required by law. The Successful Bidder (Contractor) shall execute a written agreement with each of its subcontractors and shall require all subcontractors to execute with their sub-subcontractors a written agreement which shall bind each to the terms and provisions of the prime contract awarded, insofar as such terms and provisions are applicable to the work to be performed by such subcontractors. The Contractor shall require all subcontractors and sub-subcontractors to promptly, upon request, file with SUNY a copy of such agreements upon request, from which the price and terms of payment may be deleted.

23. Compliance

Contractor shall comply with all laws, rules, orders, regulations, and requirements of federal, state and municipal governments applicable hereto, including the provisions of Exhibit A, State University of New York Standard Contract Clauses, attached hereto and made a part hereof, and for agreements with a value of \$25,000 or more Exhibit A-1, State University of New York Affirmative Action Clauses, attached hereto and made a part hereof.

24. Indemnification

a. Successful Bidder (Contractor)

The Successful Bidder(Contractor) shall fully indemnify, defend and save SUNY and its respective officers, agents and employees without limitation, from suits, actions, damages and costs of every name and description arising out of the acts or omissions of the Contractor in any performance under this Agreement including: i) personal injury, damage to real or personal tangible property; ii) negligence, either active or passive; and iii) infringement of any law or of a United States Letter Patent, with respect to Products and Services furnished under this Agreement, or of any copyright, trademark, trade secret or intellectual proprietary rights, provided that SUNY shall give Contractor: (a) prompt written notice of any action, claim, or threat of infringement suit, or other suit, promptness of which, shall be established by SUNY upon the furnishing of written notice and verified receipt, (b) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (c) assistance in the defense of any such action is at the expense of the Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, SUNY may require the Contractor, at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as SUNY shall require. New York State reserves the right to join such action, at its sole expense, when it determines there is an issue involving a significant public interest.

b. SUNY

Subject to the availability of lawful appropriations pursuant to Section 41 of the New York State Court of Claims Act, SUNY will hold the Contractor harmless from and indemnify it for any final judgment of a court of competent jurisdiction only to the extent attributable to the negligence of SUNY or of its officers or employees when acting within the course and scope of their employment and within the scope of the contract awarded.

25. Liability

The Successful Bidder (Contractor) understands and agrees that it is responsible for the performance of the Services in accordance with the terms and conditions of the awarded Contract. SUNY may look solely to the Contractor for remedy, redress, liability or indemnification for any failure to perform, whether caused by Contractor itself or by one or more of its officers, employees, subcontractors, agents, licensees, licensors or affiliates or any person or entity acting on behalf of Contractor in providing the Services. The Contractor shall be fully liable for the actions of its officers, employees, subcontractors, agents, licensees, licensors, or affiliates or any person or entity acting on its behalf in providing the Services and shall fully indemnify and save harmless SUNY and the State of New York from suits, actions, damages and costs of every name and description presented, brought, or recovered against SUNY and the State of New York for, or on account of any liability which may be incurred by reason of the Contractor's performance of this Agreement.

The Contractor will be responsible for the work, direction and compensation of any person or entity it engages as an officer, expert, employee, consultant, agent, independent contractor, or subcontractor. Nothing in the contract awarded or the performance thereof by the Contractor will impose any liability or duty whatsoever on SUNY including, but not limited to, any liability for taxes, compensation, commissions, Workers' Compensation, disability benefits, Social Security, or other employee benefits for any person or entity.

26. Insurance

During the term of the awarded contract, the Successful Bidder (Contractor) must obtain and maintain insurance coverage at its own expense as provided in this paragraph, and shall deliver Certificates of Insurance in a form satisfactory to SUNY before commencing any work under this contract. Certificates shall reference the Contract Number. Certificates of Insurance must indicate the applicable deductible/self-insured retention on each policy. Certificates shall be mailed to: Soteris Tzitzis, Director University Services, SUNY Fredonia, Office of University Services, 280 Central Ave., Fredonia, NY 14063.

The policies of insurance set forth below shall be written by companies authorized by the New York Department of Financial Services to issue insurance in the state of New York ("admitted" carriers) with an A.M. Best company rating of "A-" or better. Unless otherwise agreed, policies shall be written so as to include a provision that the policy will not be canceled, materially changed, or not renewed without at least thirty (30) days prior written notice except for non-payment as required by law to: Soteris Tzitzis, Director University Services, SUNY Fredonia, Office of University Services, 280 Central Ave., Fredonia, NY 14063.

All insurance policies shall provide that the required coverage shall apply on a primary and not on an excess or contributing basis as to any other insurance that may be available to SUNY for any claim arising from the successful bidder's work under the awarded contract, or as a result of the successful bidder's activities. Any other insurance maintained by SUNY shall be excess of and shall not contribute with the successful bidder's insurance, regardless of any "other insurance" clause contained in any SUNY policy of insurance.

At least two weeks prior to the expiration of any policy required by the awarded contract, evidence of renewal or replacement of policies of insurance with terms no less favorable to SUNY than the expiring policies shall be delivered to SUNY in the manner required for service of Notice under the contract.

a. **Workers Compensation and Disability Benefits Coverage** for the life of this Agreement for the benefit of employees required to be covered by the New York State Workers Compensation Law and the New York State Disability Benefits Law. Evidence of coverage must be provided on forms specified by the Commissioner of the Workers Compensation Board.

b. **General Liability Insurance** with limits no less than One Million Dollars (\$1,000,000) per claim and Two Million Dollars (\$2,000,000) in the aggregate. Such policy shall name the State University of New York as an additional insured and shall designate the State University of New York as the loss payee, and shall contain a provision that the State University of New York shall receive at least thirty (30) days written notice prior to material change, cancellation or expiration of such policy.

c. **Business Automobile Liability insurance** covering liability arising out of the use of any motor vehicle in connection with the work, including owned, leased, hired and non-owned vehicles bearing, or under the circumstances under which they are being used, required by the Motor Vehicle Laws of the State of New York to bear, license plates. Such policy shall have a combined single limit

for Bodily Injury and Property Damage of at least One Million Dollars (\$1,000,000) and shall name the State University of New York as additional insured. The limits may be provided through a combination of umbrella/excess liability policies.

27. Termination

The Contract awarded to the Successful Bidder (Contractor) may be terminated by SUNY for any of the following reasons:

- a. *Convenience of SUNY*: The contract may be terminated at any time upon receipt of thirty (30) days prior written notice given by SUNY for whatever reason.
- b. *Event of default*: The contract may be terminated in the event of breach of any of its provisions by the Contractor, or if the Contractor's Services are deemed unsatisfactory in SUNY's sole discretion, due to Contractor's fault or negligence, or that of its officers, employees, subcontractors, agents, licensees, licensors, or affiliates. In such event, SUNY will send a written cure notice in accordance with the Notice provisions of the contract, and Contractor shall have thirty (30) days to correct the deficiencies noted. If the deficiencies are not corrected, SUNY may terminate this contract immediately upon written notice.
- c. *Deficient Certifications*: If the awarded contract has a value greater than \$15,000, SUNY shall have the right to terminate in the event the State Finance Law sections 139-j and 139-k certifications executed by the Contractor are found to be false or incomplete. If the contract has a value of greater than \$100,000 and Contractor's sales for the immediately preceding four quarters were greater than \$300,000, or if the contract has a value of \$125,000 or greater, SUNY shall have the right to terminate in the event the successful bidder's Department of Taxation and Finance Contractor Certification form, ST 220-CA, statements are found to be false or incomplete.
- d. *Lack of Funds*: If for any reason the State of New York terminates or reduces its appropriations to SUNY, the awarded contract may be terminated or reduced at SUNY's discretion, provided that no such reduction or termination shall apply to allowable costs already incurred by the Contractor where funds are available to the SUNY for payment of such costs. In any event, no liability shall be incurred by the State (including SUNY) beyond monies available for the purposes of the awarded contract.
- e. SUNY may terminate the awarded contract, upon written notice, in the event of any of the following: (1) Contractor makes an assignment for the benefit of creditors; (ii) a petition in bankruptcy or any insolvency proceeding is filed by or against Contractor and is not dismissed within thirty (30) days from the date of filing; or (iii) all or substantially all of Contractor's property is levied upon or sold in any judicial proceeding.

28. Procurement Lobbying Act – State Finance Law §§ 139-j and 139-k

Prior to approval of the contract for which this IFB has been issued by SUNY, or if applicable, the Office of the State Comptroller, a Bidder shall not communicate with SUNY other than with the persons identified in this IFB as Designated Contacts or with a person who the Designated Contacts has advised the Bidder in writing is also a Designated Contact. Generally, the New York State Finance Law restricts communications between a bidder or a person acting on behalf of a Bidder, including its lobbyist, to communications with the officers and employees of the procuring agency designated in each solicitation to receive such communications. Further, the law prohibits a communication (a "Contact") which a reasonable person would infer as an attempt to unduly influence the award, denial or amendment of a contract. These restrictions apply to each contract in excess of \$15,000 during the "restricted period" (the time commencing with the earliest written notice of the proposed procurement and ending with the later of approval of the final contract by the agency, or, if applicable, the State Comptroller). The agency must record all Contacts, and, generally, must deny an award of contract to a vendor involved in a knowing and willful Contact.

Each agency must develop guidelines and procedures regarding Contacts and procedures for the reporting and investigation of Contacts. SUNY's procurement record must demonstrate compliance with these requirements. SUNY will make a record of all Contacts, and such records of Contact will become part of the procurement record for this IFB. A determination that a Bidder or a person acting on behalf of a Bidder has intentionally made a Contact or provided inaccurate or incomplete information as to its past compliance with State Finance Law §§139-j and 139-k, is likely to result in denial of the award of contract under this IFB. Additional sanctions may apply. A complete copy of SUNY's Procurement Lobbying Policy and Procedure is available for review at http://www.suny.edu/sunypp/documents.cfm?doc_id=430.

Each Bidder shall submit with its proposal a written affirmation of its understanding of SUNY's procurement lobbying procedures and agreement to comply with such procedures. The requisite form is provided at Attachment 3. It may also be accessed online at: http://www.suny.edu/sunypp/documents.cfm?doc_id=282.

29. State Finance Law ("SFL") §139-l

Pursuant to N.Y. State Finance Law §139-l, every bid made on or after January 1, 2019 to the State of any public department or agency thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed or to be

performed or goods sold or to be sold, and where otherwise required by such public department or agency, shall contain a certification that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of N.Y. State Labor Law §201-g.

N.Y. State Labor Law §201-g provides requirements for such policy and training and directs the Department of Labor, in consultation with the Division of Human Rights, to create and publish a model sexual harassment prevention guidance document, sexual harassment prevent policy and sexual harassment training program that employers may utilize to meet the requirements of N.Y. State Labor Law §201-g. The model sexual harassment prevention policy, model sexual harassment training materials, and further guidance for employers, can be found online at the following URL:

<https://www.ny.gov/combating-sexual-harassment-workplace/employers>

Pursuant to N.Y. State Finance Law §139-l, any bid by a corporate bidder containing the certification required above shall be deemed to have been authorized by the board of directors of such bidder, and such authorization shall be deemed to include the signing and submission of such bid and the inclusion therein of such statement as the act and deed of the bidder.

If the bidder cannot make the required certification, such bidder shall so state and shall furnish with the bid a signed statement that sets forth in detail the reasons that the bidder cannot make the certification. After review and consideration of such statement, SUNY may reject the bid or may decide that there are sufficient reasons to accept the bid without such certification.

The certification required above can be found on [Attachment 5], which bidder must submit with this bid.

30. Restrictions on the Activities of Current and Former State Officers and Employees

All Bidders and Bidder employees must be aware of and comply with the requirements of the New York State Public Officers Law, all other appropriate provisions of New York State Law and all resultant codes, rules and regulations from State laws establishing the standards for business and professional activities of State employees and governing the conduct of employees of firms, associations and corporations in business with the State.

Contractors and their employees are cautioned that the hiring of former state employees may violate the Ethics Law. The governing provisions are set forth the New York State Public Officers Law §§ 73 and 74, and the underlying principle of law is to prevent conflicts of interest and encourage ethical behavior. The law may be found on the website of the New York State Joint Commission on Public Ethics at: http://www.jcope.ny.gov/about/laws_regulations.html.

31. Diesel Emissions Reduction Act of 2006

The Successful Bidder (Contractor) certifies and warrants that all heavy duty vehicles, as defined in New York State Environmental Conservation Law (ECL) section 19-0323, to be used by Contractor, its agents or subcontractors under the contract awarded, will comply with the specifications and provisions of ECL section 19-0323 and any regulations promulgated pursuant thereto, which requires the use of Best Available Retrofit Technology (“BART”) and Ultra Low Sulfur Fuel (“ULSD”), unless specifically waived by DEC. Qualification for a waiver under this law will be the responsibility of Contractor. Annually, but no later than March 1st, Contractor shall complete and submit directly to SUNY, via electronic mail, the Regulated Entity Vehicle Inventory Form and Regulated Entity and Contractors Annual Report forms available at the Department of Environmental Conservation (“DEC”) website: <http://www.dec.ny.gov/chemical/4754.html>, for heavy duty vehicles used in the performance of the contract awarded for the preceding calendar year. The Contractor shall certify to SUNY, and submit with each application for payment, Contractor and Subcontractor Certification forms, which state that the Contractor will comply with the provisions of ECL Section 19.0323.

32. Smoke Free SUNY

The State University of New York campus is smoke free. No smoking is permitted within the buildings or upon the grounds owned or leased by SUNY. The Successful Bidder (Contractor) must communicate this policy to its employees, subcontractors, and any other individuals assigned to enter upon SUNY grounds and premises in connection with the services to be performed in connection with the contract awarded.

Attachment 1: Bid Submission Checklist

√	Description
<input type="checkbox"/>	IFB (page 1) Summary Information Form
<input type="checkbox"/>	Attachment 1: Bid Submission Checklist
<input type="checkbox"/>	Attachment 2: Bidder Qualifications Submission Form
<input type="checkbox"/>	Attachment 3: Procurement Lobbying Act Certification
<input type="checkbox"/>	Attachment 4: Non-Collusive Bidding Certification
<input type="checkbox"/>	Attachment 5: State Finance Law (“SFL”) §139-I Certification
<input type="checkbox"/>	Attachment 6: Schedule of Elevators
<input type="checkbox"/>	Attachment 7: Vendor response sheet
<input type="checkbox"/>	Attachment 8: Pricing Sheets
<input type="checkbox"/>	Attachment 9: Detailed specifications
<input type="checkbox"/>	<p>Vendor Responsibility: File either the required Vendor Responsibility Questionnaire online via the New York State VendRep System or complete and submit a paper questionnaire.</p> <p>Select one:</p> <p><input type="checkbox"/> completed online questionnaire</p> <p><input type="checkbox"/> paper copy of questionnaire included in Bid.</p>
<input type="checkbox"/>	MWBE Form 104: Equal Opportunity Policy Statement
<input type="checkbox"/>	MWBE Form 107: Utilization Form
<input type="checkbox"/>	MWBE Form 108: EEO Staffing Plan

Attachment 2: References

References: Use separate sheet if necessary for additional information

References				
Company Name:	Address:	Contact Name, email address, Phone #	Length of time as your customer	Estimated Total Annual Sales

Contract Terminations				
Company Name:	Address:	Contact Name, email address, Phone #	Date of Contract Termination	Reason for Contract Termination

Attachment 3: Procurement Lobbying Act Certification

State Finance Law §§139-j and 139-k, enacted by Ch. 1 L. 2005, as amended by Ch. 596 L. 2005, effective January 1, 2006, regulate lobbying on government procurement, including procurements by State University to obtain commodities and services and to undertake real estate transactions.

Generally, the law restricts communications between a potential vendor or a person acting on behalf of the vendor, including its lobbyist, to communications with the officers and employees of the procuring agency designated in each solicitation to receive such communications. Further, the law prohibits a communication (a "Contact") which a reasonable person would infer as an attempt to unduly influence the award, denial or amendment of a contract. These restrictions apply to each contract in excess of \$15,000 during the "restricted period" (the time commencing with the earliest written notice of the proposed procurement and ending with the later of approval of the final contract by the agency, or, if applicable, the State Comptroller). The agency must record all Contacts, and, generally, must deny an award of contract to a vendor involved in a knowing and willful Contact. Each agency must develop guidelines and procedures regarding Contacts and procedures for the reporting and investigation of Contacts. The agency's procurement record must demonstrate compliance with these new requirements.

Accordingly, neither a potential vendor nor a person acting on behalf of the vendor should contact any individual at State University other than the person designated in this solicitation as State University's Designated Contact, nor attempt to unduly influence award of the contract. State University will make a record of all Contacts, and such records of Contact will become part of the procurement record for this solicitation. A determination that a vendor or a person acting on behalf of the vendor has made intentionally a Contact or provided inaccurate or incomplete information as to its past compliance with State Finance Law §§139-j and 139-k is likely to result in denial of the award of contract under this solicitation. Additional sanctions may apply.

The University's Procedures are available at: http://www.suny.info/policies/groups/public/documents/policies/pub_suny_pp_039630.htm

Please complete the following:

1. As defined in State Finance Law §§ 139-j (1)(a), has a governmental agency made a determination of non-responsibility with respect to the Offeror within the previous four years where such a finding was due to a violation of State Finance Law §§ 139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility?

NO YES If yes, attach explanation

2. Has a governmental entity terminated or withheld a procurement contract with the Offeror because of violations of State Finance Law §§ 139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility?

NO YES If yes, attach explanation

CERTIFICATION:

By signing below the Bidder affirms and certifies that it: (1) has reviewed and understands the Policy and Procedure of SUNY, related to SFL §§ 139-j and 139-k, (2) agrees to comply with SUNY's procedure relating to Contacts with respect to this procurement, and (3) has provided information that is complete, true, and accurate with respect to SFL §§ 139-j and 139-k. Bidder understands that SUNY reserves the right to terminate any resulting contract in the event it is found that the certification filed by the Bidder in accordance State Finance Law §§139-j and 139-k was intentionally false or intentionally incomplete. Upon such finding, SUNY may exercise its termination right by providing written notification to the Bidder in accordance with the written notification terms of the contract.

Firm's Name and Address:	
FEIN #:	
Telephone Number: () ___ - ___	
Fax Number: () ___ - ___	
Email Address:	
Bidder's Name and Title:	
Bidder's Signature:	
Date:	

Attachment 4: Non-Collusive Bidding Certification

By Submission Of This Bid, Bidder And Each Person Signing On Behalf Of Bidder Certifies, And In The Case Of Joint Bid, Each Party Thereto Certifies As To Its Own Organization, Under Penalty Of Perjury, That To The Best Of His/Her Knowledge And Belief:

1. The prices of this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and
3. No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

A Bid Shall Not Be Considered For Award Nor Shall Any Award Be Made Where [1], [2], [3] Above Have Not Been Complied With; Provided However, That If In Any Case The Bidder(S) Cannot Make The Foregoing Certification, The Bidder Shall So State And Shall Furnish Below A Signed Statement Which Sets Forth In Detail The Reasons Therefore:

[AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT.]

IF BIDDER(S) (ARE) A PARTNERSHIP, COMPLETE THE FOLLOWING:

NAMES OF PARTNERS OR PRINCIPALS LEGAL RESIDENCE

_____	_____
_____	_____
_____	_____
_____	_____

IF BIDDER(S) (ARE) A CORPORATION, COMPLETE THE FOLLOWING:

NAME LEGAL RESIDENCE

President:

_____	_____
_____	_____

Secretary:

_____	_____
_____	_____

Treasurer:

_____	_____
_____	_____

President:

_____	_____
_____	_____

Secretary:

_____	_____
_____	_____

Treasurer

Attachment 5 - State Finance Law ("SFL") §139-I CERTIFICATION

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to:

- all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
- employers with fewer than four employees in all cases involving sexual harassment; and,
- any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with State Finance Law ("SFL") §139-I, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

State Finance Law ("SFL") §139-I and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

N.Y. STATE FINANCE LAW § 139-I

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.

Contractor: _____

By: _____

Name: _____

Title: _____

Date: _____, 20____

Attachment 6: Schedule of Elevators Pg. 1

BUILDING	TYPE	MANUFACTURER ID NUMBER	MANUFACTURER	TRACTION OR HYDRAULIC	PHONE NUMBER	CAPACITY
Carn. Jac. East	Passenger	413060	Otis	Hydraulic	673-3683	2000 lbs.
Carn. Jac. West	Passenger	413061	Otis	Hydraulic	673-3782	2000 lbs.
Chautauqua	Freight	205724	Otis	Traction	673-3719	2000 lbs.
Eisenhower	Passenger	E-25133	Dover	Hydraulic	673-3758	1500 lbs.
Erie	Passenger	E-25134	Dover	Hydraulic	673-3759	2000 lbs.
Fenton	Passenger	85359	White Evans	Hydraulic	673-3721	3200 lbs.
Gregory	Passenger	EE 7327	Dover	Hydraulic	673-3354	2500 lbs.
Grissom	Passenger	E-25132	Dover	Hydraulic	673-3757	1500 lbs.
Hemingway	Passenger	C-22560	Montgomery	Hydraulic	673-3750	1500 lbs.
Houghton	Freight	E-26946	Dover	Hydraulic	673-3756	4000 lbs.
Incubator	Passenger	245937	Otis	Hydraulic		
Igoe	Passenger	C-22559	Canton	Hydraulic	673-3732	1500 lbs.
Jewett	Passenger	205708	Otis	Traction	673-3715	4000 lbs.
Mason Addition	Handicap	60237	Garaventa	Screw	n/a	750 lbs.
Mason Addition	Passenger	Z34427	Dover	Hydraulic	673-3752	5000 lbs.
Mason Recital	Passenger	464159	Otis	Hydraulic	673-4728	2500 lbs.
Maytum	Passenger	C-21512-2	Dover	Traction	673-3713	2000 lbs.
Maytum # 2	Handicap	C-21512-3	Dover	Traction	673-3761	2000 lbs.
McEwen	Passenger	4515	Canton	Roped Hydraulic	673-3754	3000 lbs.
Nixon	Freight	205723	Otis	Traction	673-3717	2000 lbs.
Reed	Handicap	7604	Moti-Vator	Hydraulic	673-3751	750 lbs.
Rockefeller	Handicap	EDO7020	Dover	Hydraulic	673-3541	2500 lbs.
Rockefeller	Stage Lift	E-13519	Dover	Hydraulic	n/a	
Rockefeller	Stage Lift	G-13542	Dover	Hydraulic	n/a	
Rockefeller (Costume Shop)	Chair Lift		Bella Elevator		n/a	750 lbs.
Rockefeller Addition A (north)	Passenger	SRH-2040	Delaware	Hydraulic	680-6026	4000 lbs.
Rockefeller Addition B (south)	Freight	HMC-2000	Canton	Hydraulic	680-6027	5000 lbs.
Science Building (East #2)	Passenger	ABA21241U	Otis	Roped Hydraulic	673-4967	3500 lbs.
Science Building (West #1)	Passenger	ABA21241U	Otis	Roped Hydraulic	673-4968	3500 lbs.
Steele	Passenger	Z34422	Dover	Hydraulic	673-3760	3500 lbs.
Thompson	Passenger	335575	Otis	Hydraulic	673-3720	4000 lbs.
Thompson	Passenger	Z34424	Otis	Hydraulic	673-3714	2000 lbs.
University Commons #1 (front)	Passenger	B7162-01	Schindler	Hydraulic	673-3691	2500 lbs.
University Commons #2 (Res Life)	Passenger	B7163-02	Schindler	Hydraulic	673-3692	4500 lbs.

Attachment 6: Schedule of Elevators Pg. 2

BUILDING	TYPE	MANUFACTURER ID NUMBER	MANUFACTURER	TRACTION OR HYDRAULIC	PHONE NUMBER	CAPACITY
University Commons #3	Freight	B7164-03	Schindler	Hydraulic	673-3693	2500 lbs.
University Village	Passenger	43T144136523	Schindler	Hydraulic	673-6052	4000 lbs.
Williams Center	Handicap	EH1312	Dover	Hydraulic	673-3784	2100 lbs.
Williams Center	Passenger	E31236	Dover	Hydraulic	673-3753	3500 lbs.

Attachment 7: Vendor Response Sheet

Your proposal must include the following:

1. Provide the cost for providing elevator maintenance services (Attachment 8) to the campus.
2. Provide a listing of employees that could potentially be servicing the campus elevators (including their relevant experience and any certifications they may hold).
3. Describe the process for requesting maintenance support (including (but not limited to) information about response times, contact information, emergency response times, and procedures for emergency needs).
4. Provide any information you have about web services and/or programs for customer service purposes (ex: opening a customer service ticket, tracking maintenance status, etc.).
5. Provide any information you have about web services and/or programs that can be used to track campus elevator status.

Attachment 8: Pricing Sheet – Pg 1

Please fill out the following and return with your proposal:

Vendor Name: _____

BUILDING	MONTHLY COST	ANNUAL COST
Carn. Jac. East		
Carn. Jac. West		
Chautauqua		
Eisenhower		
Erie		
Fenton		
Gregory		
Grissom		
Hemingway		
Houghton		
Incubator		
Igoe		
Jewett		
Mason Addition		
Mason Addition		
Mason Recital		
Maytum		
Maytum # 2		
McEwen		
Nixon		
Reed		
Rockefeller		
Rockefeller		
Rockefeller		
Rockefeller (Costume Shop)		

Attachment 8: Pricing Sheet – Pg 2

BUILDING	MONTHLY COST	ANNUAL COST
Rockefeller Addition A (north)		
Rockefeller Addition B (south)		
Science Building (East #2)		
Science Building (West #1)		
Steele		
Thompson		
Thompson		
University Commons #1 (front)		
University Commons #2 (Res Life)		
University Commons #3		
University Village		
Williams Center		
Williams Center		

TOTAL ANNUAL COST

\$ _____

*Further detail on Attachment 5

Time and Material Cost (estimated):

1. Annual cost for maintenance

\$ _____

PRC#: 2019003519 - Elevator Maintenance Services

Prevailing Wage Rates: The services requested must be in compliance with the NYS Department of Labor Prevailing Wage Rates. The PRC# assigned to this project is 2019003519. The link below shows the applicable rates as of the day of March 20 , 2019.

Chautauqua Prevailing Wage Rates (as of 3/20/2019):

<https://applications.labor.ny.gov/wpp/publicViewProject.do?method=showIt&id=1372059>

PRC#: 2019003519

Type of Contracting Agency: SUNY / Colleges

Acceptance Status: Accepted Article 8

Contracting Agency

SUNY Fredonia
Soteris Tzitzis
280 Central Ave.
Fredonia NY 14063
(716) 673-3257 (716) 673-4977 Fax
tzitzis@Fredonia.edu

Project Information

Project Title	Full Service Elevator Maintenance
Description of Work	Provide full service elevator maintenance to SUNY Fredonia's 26 elevators.
Contract Id No.	T000338
Project Location(s)	Various locations on campus
Route No / Street Address	280 Central Ave.
Village / City	Fredonia
Town	Promfret
State / Zip	NY 14063
Nature of Project	Other Reconstruction, Maintenance, Repair or Alteration
Approximate Bid Date	12/10/2019
Checked Occupation(s)	Construction (Building, Heavy & Highway, Sewer, Water, Tunnel)

Applicable Counties

Chautauqua

Contractor Fill-In:

1. Prevailing Rate for Mechanic \$ _____
2. Prevailing Rate for Helper \$ _____
3. Prevailing Rate for Mechanic Team \$ _____
4. Percent of Mark Up over Prevailing Wage Rate for Team _____ %

5. Estimated Annual Repair Hours: 50 hours

Prevailing Wage Rate \$ _____/hour x Mark Up _____% x 50 hours \$ _____

Parts/Material Not Defined by Maintenance Specifications:

1. Percent Mark Up over Cost of Parts/Materials: _____%

2. Yearly Estimate of Cost of Parts/Materials: \$5,000

Material Markup _____% x \$5,000 \$ _____

TOTAL ANNUAL MAINTENANCE BID \$ _____

Attachment 9 – Detail Specifications

1. WORK REQUIRED BY THE SPECIFICATIONS

These Specifications relate generally to the performance of Elevator services at SUNY FREDONIA, as shown in “Attachment 6”, in the State of New York.

This agreement covers the following of work:

- (a) Maintenance - which includes but is not limited to: full coverage preventative maintenance, routine work, running on arrival, key retrieval, non-routine repairs, call back service, emergency service and routine and periodic tests and inspection and cleaning.
- (b) Extra Cost Work that may be approved by the STATE UNIVERSITY OF NEW YORK and/or its Designated Representatives.

This agreement requires the Contractor to become fully responsible for the maintenance as specified elsewhere herein of elevators, including the replacement of all parts, and all labor required to continually keep the elevators in compliance with Chapter 30 of the Building Code of New York State Elevators and Conveying Systems and the applicable A17.1 Elevators and Escalator Safety Code and the A17.3 Safety Code for Existing Elevators and Escalators and any other applicable New York State Building Codes and local laws.

These Specifications require the doing of all work necessary or proper for or incidental to the matter referred to in the immediately preceding paragraphs. In addition, all work not expressly mentioned in the Specifications but involved in carrying out their intent and in the complete and proper execution of the matter referred to in the immediately preceding paragraphs are required by these Specifications and the Contractor shall perform the same as though they were specifically described.

(c) Hours of Service

Normal preventive maintenance and repair work shall be performed during normal working hours (8:00 a.m. —4:30 P.M.) and on regular working days established for the trade. The contractor will make provisions for after hours emergencies and call back services -24 hours per day, seven days per week. Emergency call-back service shall consist of 24 hours a day, seven days a week including holidays. After hour work inspections/testing or preventative maintenance will be scheduled with the campus. If work is scheduled during other than normal working hours necessitating the payment of premium or overtime wages by the Contractor, then the Contractor shall be responsible for the basic hourly rate which includes fringe benefits and all other related personal service costs and the campus will, upon receipt of properly documented invoices, pay the actual amount of the premium portion of the billing rates.

(d) Repair & Replacement of Parts

Provide all labor and material relative to repair or replacement of all elevators that are found to be deficient or not in compliance with the requirements of the specification, during maintenance; inspection or testing procedures. Make all repairs and replacement matching manufacturer's parts. Replacement and repair coverage shall be full and complete, and shall include the cost of all labor, supervision, materials, parts, supplies, tools, equipment, transport, permits, expenses, and all incidental items not specified, but reasonable necessary for repairing or replacing all deficient elevator components including but not limited to the following:

1. Machine and related components, including, but not limited to: shafts, bearings, brake and components parts, motors, chains, pulleys, coils, contacts, linings, brushes, and holders.
2. Controller and related components, including but, not limited to relays, solid state components, resistors, condensers, transformers, contacts, leads, overloads, dashpots, timing devices, computer devices and mechanical and electrical driving equipment, including all switches.
3. Motors and related components including but not limited to windings, rotating elements and bearings.
4. Handrails, guide rollers, and alignment devices.
5. Stop switches and related components.
6. Conductor cables and wiring.

All replacement components shall be original equipment manufacture (OEM) unless they are no longer available, in which case the Contractor shall notify the campus and provide after-market components at no additional costs.

(e) Non covered Items

Repairs determined by the campus to be due to vandalism, collision, acts of God, natural disasters or improper use of equipment will be paid to the contractor on a time and materials basis. These repairs must be clearly marked on all work tickets submitted to the campus. Prior approval by the designated campus representative is required. All work must be based on hourly day and premium time; material must be charged in accordance with the % mark-Up cost.

2. **PERSONNEL REQUIREMENTS**

The Contractor shall have no less than two full time journey persons assigned providing maintenance and call-back repairs of elevators under this agreement. The Contractor (and any subcontractor) shall furnish competent and adequately trained personnel to perform the Work required hereunder. Maintenance shall be performed by journey persons, competently supervised, who shall be qualified to keep the elevators adjusted and repaired and in proper operating condition. If, in the opinion of SUNY Fredonia, any employee so assigned is performing its functions unsatisfactorily, he shall be replaced by the Contractor within twenty-four (24) hours following the Contractor's receipt of SUNY Fredonia's request for such replacement.

Journey persons providing maintenance and repairs of elevators under this agreement shall have successfully completed an industry accredited course covering maintenance and repairs of elevators and must possess a minimum of five (5) years previous journey persons experience maintaining elevators of similar type and complexity to those covered under this agreement.

The successful Contractor shall submit to SUNY Fredonia the names of employees who will perform scheduled maintenance work under this Contract. No employee will be permitted to work under this Contract without approval of SUNY Fredonia.

(a) Personnel Uniform and Badges

The Contractor shall provide for its personnel all necessary distinctive uniforms and identification badges or woven identification insignia of a type and style which shall be subject to approval of the STATE UNIVERSITY OF NEW YORK, and the Contractor's employees shall wear these uniforms and identification badges or insignia at all times when performing the operations hereunder.

Employees without proper identification shall not be permitted to work. The uniforms must be worn by the Contractor's personnel at all times while working at the Building. The Contractor shall be responsible to ensure that its employees are wearing proper shoes for the task being performed.

The STATE UNIVERSITY OF NEW YORK shall have the right to require removal of any employee who shall fail to wear the proper uniform and shoes and exercise of this right shall not limit the obligations of the Contractor to perform the Work.

3. **HIGH SECURITY AREAS**

Work under this Contract may be required in high security areas as such may be designated, at any time, by the STATE UNIVERSITY OF NEW YORK. The STATE UNIVERSITY OF NEW YORK will require observance of certain security procedures with respect to the performance of such Work, which procedures may include the escort to, at and or, from such high security areas for personnel working therein.

4. **BREAKDOWN, MALFUNCTION OR DAMAGE**

Immediately upon the Contractor's discovery of any damage or signs of disrepair, mechanical breakdown or malfunction of, or cracks or breaks in any item to be repaired hereunder, he shall advise the Designated Representatives and shall place such "Out of Order" or warning signs as are appropriate. Such signs will be

furnished by the Contractor and shall remain in place until necessary repairs are completed.

5. **HOLIDAYS**

Due to community service and residential needs of the University, no holidays will be observed at this work site.

6. **TRASH REMOVAL**

- (a) The Contractor shall arrange to dispose of all liquid and solid refuse in a lawful, safe and efficient and anti-pollutant manner subject to the approval of SUNY FREDONIA. All items deemed by the Contractor to be scrap and not economically reusable shall first be examined by SUNY FREDONIA and record of same for inventory control purposes shall be maintained. The Designated Representatives shall have the option to have the Contractor dispose of same or cause to have the item turned over to SUNY FREDONIA for disposal.
- (b) The Contractor shall remove monthly from the Building by means provided by SUNY FREDONIA, all garbage, debris, and other waste materials (whether solid or liquid) arising out of or in connection with its operations hereunder, and any such garbage, debris and other waste materials not immediately removed shall be temporarily stored in a clean and sanitary condition, approved by SUNY FREDONIA, in suitable garbage and waste receptacles.
- (c) Removal of waste and/or hazardous materials by the Elevator Contractor shall be accomplished in accordance with local laws, state and federal standards applicable.

7. **GRATUITIES/LOST AND FOUND**

No personnel employed in performing the Work shall solicit or accept gratuities, for any reason whatsoever, from passengers, tenants, customers or other persons at the Site of the Work. Any articles found by such employees at the Site of the Work shall be immediately turned over to the Designated Representatives. The Contractor shall instruct its employees (and shall cause any subcontractors to instruct their employees) in the provision of this numbered clause.

8. **VACATING THE SITE OF THE WORK**

Upon the expiration or earlier termination or revocation of this Contract, the Contractor shall remove its equipment, materials, supplies, and other personal property from the Site of the Work. If the Contractor shall fail to remove its property on or before the expiration, termination or revocation of this Contract, SUNY FREDONIA may remove such property to a public warehouse for deposit or retain the same in its own possession, and sell the same at public auction, the proceeds of which shall be applied first to any expenses of removal, storage and sale and second, to any sums owed by the Contractor to SUNY FREDONIA. If the expenses of such removal, storage and sale exceed the proceeds of sale, the Contractor shall pay such excess to SUNY FREDONIA upon demand.

9. **USE OF PATENTED MATERIALS**

The right to use all patented material, composition of matter, manufacturers, apparatus or appliances required in connection with this Contract shall be obtained by the Contractor without separate or additional compensation.

The Contractor shall indemnify the State of New York, the STATE UNIVERSITY OF NEW YORK, SUNY Fredonia and its Designated Representatives against and save them harmless from all loss and expense incurred in the defense, settlement or satisfaction of any claims in the nature of patent infringement arising out of or in connection with the STATE UNIVERSITY OF NEW YORK'S use, in accordance with the preceding paragraph of this clause, of such patentable subject matter or patented material, composition of matter, manufacturers, apparatus or appliances. If requested by the STATE UNIVERSITY OF NEW YORK, and if notified promptly in writing of any such claim, the Contractor shall conduct all negotiations with respect to and defend such claims without expense to the STATE UNIVERSITY OF NEW YORK or its Designated Representatives.

10. **GENERAL OBLIGATIONS**

- (a) Except with the prior written approval of the STATE UNIVERSITY OF NEW YORK, or as specifically authorized or required elsewhere herein, the Contractor shall not erect, maintain or display any signs, posters or advertising at the Site of the Work except those mandated by governing authorities for local law compliance.
- (b) In order to effectuate the policy of the STATE UNIVERSITY OF NEW YORK, the Contractor shall comply with all provisions of federal, state, municipal, local and departmental laws, ordinances, rules, regulations and orders which would affect the Contract and the performance thereof and those engaged therein, except where stricter requirements are contained in these Specifications, in which event the latter requirements shall apply. However, the Contractor shall apply for any permits, licenses or variances in the name of or on behalf of the STATE UNIVERSITY OF NEW YORK where required by law and pay all associated fees or other charges.

11. **INSPECTIONS AND TESTS**

(a) **General:**

The Contractor shall make all mandated and/or recommended periodic and routine inspections and tests of the elevators in accordance with the requirements of the latest edition, including supplements of both the Safety Code for Elevators and Escalators, (ANSI/ASME A17.1) and the Inspectors' Manual for Elevators and Escalators, (ANSI/ASME A17.2) and provisions of the Building Laws of the State of New York which are applicable or mandated by law. The Contractor shall perform the inspections and tests indicated as they become due without extra charge under the terms of the Base Price Maintenance Contract.

Inspection and test procedures shall be conducted in accordance with the referenced standards based on dates of previous procedures and records which may be provided by the STATE UNIVERSITY OF NEW YORK and/or its Designated Representatives.

The applicable checklist for each Inspection/Test will be required as evidence that the Inspection/Test was performed. This checklist shall be provided to SUNY FREDONIA or its Designated Representative upon completion of each elevator inspection/test. When required, the Contractor shall obtain and file any other applicable inspection or test form as required by local or other governing authorities.

It shall be the Contractor's responsibility to contact SUNY FREDONIA to establish mutually convenient dates for the performance of the inspections and tests. Where possible, these inspections and tests shall be scheduled so as to coincide with the Contractor's regular maintenance inspections on a not to interfere basis.

Any deficiencies discovered as a result of the inspections and tests performed by the Contractor shall be corrected immediately by the Contractor, after which the equipment shall be retested by the Contractor without extra charge to verify that the deficiencies have been corrected to the satisfaction of the STATE UNIVERSITY OF NEW YORK or its Designated Representatives. Upon completion of these inspections and tests and the correction of deficiencies, the Contractor shall render to SUNY FREDONIA a written statement of the results of the inspections and tests. All retesting herein shall be at no additional cost to SUNY FREDONIA.

The Contractor shall prepare an itemized schedule for each specifying the procedures to be performed with alternative dates for operational conflicts. SUNY FREDONIA will review and approve the schedule to ensure there are no conflicts with other work procedures or building operations. In the event of a conflict, the Designated Representatives will approve all schedule changes with the understanding that the responsibility to perform such inspections and tests within the time frame guidelines of the referenced documents or standards remain the responsibility solely of the Contractor under this agreement.

SUNY FREDONIA retains the right to have all inspection and test procedures performed in the presence of a Designated Representatives of SUNY FREDONIA, but such representation does not limit the Contractor's responsibility for performance or recording of the procedures.

The Contractor, at no additional expense to SUNY FREDONIA, shall perform the inspection and test procedures under the base contract agreement. Any required retesting or re-inspections shall be performed without extra charge to the satisfaction of the STATE UNIVERSITY OF NEW YORK or governing authority.

Any deficiencies discovered as a result of the inspections and testing, whether witnessed by an STATE UNIVERSITY OF NEW YORK'S Designated Representatives or not, shall be characterized as follows:

Condition I	-	"Immediate"
Condition II	-	"Priority"
Condition III	-	"Routine"

- 1) Condition I - "Immediate" shall be utilized for life safety or other immediate deficiencies that adversely affect normal, safe operations and mandate removal of the unit from service at the time of testing. Upon the occurrence of the aforementioned, the Contractor shall notify the Designated Representatives verbally and provide a written confirmation prior to 10:00 a.m. on the next regular business day. Work required to correct such deficiencies shall be initiated immediately and, upon completion, notification given to SUNY FREDONIA.
- 2) Condition II - "Priority" shall be utilized for those deficiencies which could become life threatening or further impair the safe operation of vertical transportation systems before normally scheduled routine preventative maintenance repairs and adjustments would be employed for corrective actions. Condition II "Priority" deficiency classifications shall be applied to conditions that will create critical service interruptions. Required repairs, replacements and adjustments shall be scheduled with the Designated Representatives for corrective actions and re-inspection within 48 hours of recording the deficiency. The Designated Representatives will approve the service interruptions and coordinate this mandated work based on the severity of the reported condition and building operations.
- 3) Condition III - "Routine" shall be utilized for deficiencies that may be addressed as soon as possible under the Contractors preventative maintenance program. Such conditions and/or deficiencies shall not be considered as safety infractions or conditions that will otherwise cause unscheduled removal from service of elevators or create conditions that will hamper regular building operations.

The Contractor shall record all inspection and testing procedures as specified above and record all noted deficiencies in a form satisfactory to the Designated Representatives. Upon completion of corrective actions, the Contractor shall issue a report to the Designated Representatives indicating all deficiencies have been corrected and approved by a qualified Contractor superintendent or Designated Representative satisfactory to the Designated Representatives.

When repairs, adjustments or other equipment replacements are instituted over an extended time period, the Contractor shall update reports and ensure outstanding deficiencies are indicated on any new inspection or test procedures that may be undertaken prior to the satisfactory completion of work previously specified.

The STATE UNIVERSITY OF NEW YORK and/or their Designated Representatives shall retain the right to witness all re-inspection and/or test procedures as required to expunge the outstanding deficiencies.

(b) **Inspections and Tests for Electric Traction Elevators**

The following tests shall, as a minimum be performed by the Contractor at the frequencies indicated. The Contractor shall test and inspect all items.

1) Annual No Load Test and Inspection

All applicable tests and inspections in accordance with ASME/ANSI A17.1 Section 1002, periodic inspections and tests of Electric Traction Elevators shall be performed by the Contractor.

Compensation to the Contractor for the annual tests is included in the Maintenance Base Price.

2) Five Year Full Load Inspection and Test

All applicable tests and inspections in accordance with ASME/ANSI A17.1 Section 1002.3 shall be performed by the Contractor. Compensation to the Contractor for the five-year tests is included in the Maintenance Base Price.

3) Annual Hydraulic Safety Test and Inspection

All applicable tests and inspections in accordance with ASME A17.1 Section 1005, periodic inspections and tests of hydraulic elevators shall be performed by the Contractor.

4) Fire and Emergency Service Testing

Contractor shall provide a qualified technician for stand-by observation and services to the STATE UNIVERSITY OF NEW YORK, on a scheduled basis, during the building fire emergency testing procedures. Full operational and signal testing may be conducted during non-business hours.

Compensation to the Contractor for the testing of fire emergency apparatus during premium labor hours is included in the Maintenance Base Price.

12. **MAINTENANCE OF ELEVATORS**

The monthly maintenance prices for elevators, stated in "Attachment 6", includes compensation for maintenance of elevators as set forth in this Section and such maintenance shall consist of the services outlined below as a minimum. Incomplete descriptions and/or omissions shall not abrogate the Contractor's responsibility to provide full comprehensive all-inclusive full coverage maintenance service.

- (a) In performing complete maintenance, the Contractor shall use all reasonable care to keep the elevators in proper, safe and efficient operating condition, twenty four (24) hours per day, seven days per week, including legal holidays.

The Contractor shall furnish all labor, materials, supplies, parts, equipment, temporary barricades, warning signs, and do all things necessary or proper for or incidental to such maintenance. Maintenance hereunder shall be deemed to include such removal and replacement of equipment and materials as may be necessary or desirable to afford access to the equipment for maintenance. All maintenance shall be at least in accordance with the provisions of law, as well as with governmental rules, regulations and orders applicable. Whenever services are rendered under this Contract, it shall be the Contractor's responsibility to contact the STATE UNIVERSITY OF NEW YORK or Designated Representatives to report the kind of service rendered.

- (b) The Contractor shall maintain each elevator in proper adjustment for smooth, quiet operation. Elevator manufacturer's approved lubricants and cleaning materials or the equivalent approved by the Designated Representatives shall be furnished by the Contractor.

- (c) The preventative maintenance specified herein is considered the minimum for all equipment. If specific equipment covered by this Contract requires additional preventative maintenance for safe reliable operation, as specified by the manufacturer or by ASME A17.1 standards, the Contractor shall perform the required additional preventative maintenance without added cost to the STATE UNIVERSITY OF NEW YORK.
- (d) The Contractor shall perform maintenance service for each elevator at the minimum frequencies indicated hereunder, subject to a time schedule submitted to and approved by the Designated Representatives. The "Schedule of Inspections, Checks and Services", indicates the minimum maintenance routines required to be performed. Compensation for such maintenance routines shall be included in the Contractor's monthly prices for maintenance. Any revisions of an agreed upon maintenance time schedule must have the prior written approval of the Designated Representatives. The Designated Representatives shall have the right to revise an established maintenance time schedule by giving the Contractor notice and at no additional cost to the STATE UNIVERSITY OF NEW YORK for work performed during regular working hours.
- (e) **Schedule of Inspections, Checks and Services**

Prior to commencement of services, the Contractor shall formulate it's propose schedule for the upcoming year incorporating the "minimum" requirements specified herein for all units.

This Schedule shall consist of the anticipated "out of service" times for each unit and the procedure to be performed.

Preventative maintenance and/or testing procedures for Passenger Elevators shall be performed on one (1) unit at a time during normal working hours of the Contractor.

Deviations from this master schedule as desired by the Contractor or mandated by other building and equipment conditions shall be reported to the Designated Representatives for approval.

The Contractor shall make as a minimum, the following scheduled inspections, checks and services to each of the elevators and all their individual components, and at the indicated frequencies as further specified:

Maintenance and Service Records

Finally, the contractor shall maintain a computer log of all callback records on a quarterly basis. The contractor shall submit to SUNY FREDONIA a line graph which shows a trend in callbacks and juxtaposes it against industry standards.

Minimum Semi-Monthly Scheduled Requirements:

- 1) See SUNY FREDONIA Designated Representatives - Investigate and correct all complaints.
- 2) Operate Elevator: (From inside the car under normal operation.)
 - a) Check for any unusual noise or operation function.
 - b) Check floor stopping accuracy/leveling/pre-door opening.
 - c) Check alarm bell/stop switch.
 - d) Check door protection/operational appurtenances.
 - e) Perform necessary, immediate repairs/adjustments.

- f) Check operating and signal equipment.
- 3) Machine Room and Secondary:
- a) Observe controllers and relay panels. Check contractors for burning and wear. Inspect wiring and physical condition of components for deterioration's, heating and contamination.
 - b) Motors and/or Generators - Check for proper lubrication of bearings. Inspect brushes and commutation with car in operation. Check each unit for noise, vibration and heating and clearances between rotating elements and poles.
 - c) Hoisting Machines and Brakes - Check all lubrication provisions, empty drip pans and wipe down equipment. Observe worm gears for back lash and thrust play where applicable. Inspect brake components for wear and operation. Observe physical conditions in standing and operating modes.
 - d) Drive Sheaves and Wire Ropes - Observe physical conditions in standing and operating modes.
 - e) Overspeed Governor and Auxiliary Sheaves - Check for any unusual noise, vibrations or other physical deterioration's.
 - f) Pump units and hydraulic valves - Check for proper tension or wear on pump motor belts, oil leakage from valves, pump unit or tank. Check each unit for noise, vibration, or low oil condition. Repair or replace to correct any deficiency found.
 - g) Perform necessary immediate repairs/adjustments.

Minimum Monthly (12 times a year)

- 1) Perform general inspection of machinery, traction motor, generator, brushes, gearbox, pulleys, brakes, governor, selectors, or floor controllers. Lubricate as required.
- 2) Empty drip pans, discard oil, check reservoir oil level.
- 3) Inspect and lubricate machinery, contacts, linkage and gearing.
- 4) Clean and inspect controller, selectors, relays, connectors, contacts.
- 5) Ride car and observe operation of doors, leveling, reopening devices, smoothness.
- 6) If rails are lubricated, check condition and lubrication. Service lubricators.
- 7) Check operation of all hoist way door interlocks.
- 8) Inspect all lighting associated with the elevators, including, but not limited to pit lights, equipment room lights, shaft way lights, floor indication lights, car and hall station push button lights, interior and exterior direction lights, arrow lights, signal lantern lights, under floor lights, cab, entrance and roof lights. Replace as needed. The Contractor shall re-lamp all inoperative lights and so indicate in the checklist of the "Service Maintenance Form" specified hereinafter. Check all alarms and maintain in proper working order.
- 9) Remove litter, dust, oil and other extraneous materials from all machine room equipment, door saddles and other areas of the elevators not accessible from elevator lobby.
- 10) Clean trash from pit and empty drip pans, discard oil. Examine plunger seals and correct

excess leakage.

- 11) Test telephone or communication systems and report the Operational status to Designated Representatives on the forms provided.
- 12) Check operation of all floor indicators lights both inside and outside of elevators. Repair if necessary.

Minimum Quarterly (4 times per year)

- 1) Observe operation of elevator throughout its full range and at all floors it serves to test controls, safety devices, leveling, releveling, and other devices.
- 2) Check door operation. Clean, lubricate and adjust brake checks, linkages, gears, wiring, motor, check keys, set screws, contacts, chains and cams.
- 3) Inspect interior of cab. Normal and emergency lights, fan, emergency call system or alarm, miscellaneous hardware, control panel and emergency lights.
- 4) Inspect hoist way and pit. Clean and lubricate equipment as required. Service guide rail lubrication.
- 5) Test mechanism. Observe operation of motor, generator, brakes, governor, traction machinery and sheaves.
- 6) Test manual and emergency control applicable to systems.
- 7) Check oil level in car and counterweight oil buffers, oil hydraulic systems, add oil as required.
- 8) Visually inspect controller, selector, contacts and relays. Check adjustments and replace contact as required.
- 9) Check hallway doors. Clean, lubricate and adjust tracks, hangers and up thrust, eccentrics, linkage, gibs and interlocks.
- 10) Clean, adjust and lubricate car door or gate tracks, pivots, hangers, car grille and stile channels.
- 11) See building Designated Representatives. Correct all complaints and conditions recorded. Perform necessary immediate repairs and adjustments.
- 12) Operate Elevator: (From inside the car under normal operations)
 - a) Check for any unusual noise or operation function.
 - b) Check floor stopping accuracy/leveling/pre-door opening.
 - c) Check alarm bell/stop switch.
 - d) Check door protection/operational appurtenances.
 - e) Check all operating and signal fixtures for illumination and audible functions.
 - f) Check interior ventilation provisions, emergency lighting, light controls and auxiliary equipment.
 - g) Check and observe door operations. Inspect door

alignment, guides and closing pressure.

13) Machine Room and Secondary:

- a) Observe controllers and relay panels. Check contactors for burning and wear. Inspect wiring and physical condition of components for deteriorations, heating and contamination.
- b) Check all controller resistance tubes, grids and connections for obvious deficiencies.
- c) Remove controller fuses. Clean fuses and holders.
- d) Inspect selector and/or encoder drive components and operating functions. Lubricate components per the O.E.M. specifications.
- e) Motors and/or Generators - Check for proper lubrication of bearings. Inspect brushes and commutation with car in operation. Check each unit for noise, vibration and heating. Check brush tensioning and wear. Perform a visual inspection of armature, field coils and interpole windings, connections, leads and commutator risers for physical deteriorations and damaged insulation.
- f) Hoisting Machines and Brakes - Check all lubrication provisions, empty drip pans and wipe down equipment. Observe worm gears for back lash and thrust play. Inspect brake components for wear and operation. Check all machine component fastenings to include drive sheave and ring gear bolts, machine hold-downs, couplings, brake drum pulleys, isolation mounts and covers. Inspect brake linings and drum surfaces.
- g) Drive Sheaves and Wire Ropes - Observe physical conditions in standing and operating modes. Inspect position of wire ropes in traction drive sheave grooves. Monitor rope slippage under normal operating modes. Inspect all speed monitoring and control apparatus.
- h) Overspeed Governor/Auxiliary Sheaves - Check for any unusual noise, vibrations or other physical deteriorations. Ensure seals and tags are properly affixed and legible. Lubricate governor(s), selector drives and auxiliary sheave components in accordance with O.E.M. specifications.

14) Car Top:

- a) Clean, lubricate and adjust master door operator when conditions warrant.
- b) Inspect car guides for wear and alignment. (Lubricate sliding shoe systems.) Adjust guide tensioning and observe operation.
- c) Inspect car and counterweight cable hitches.
- d) Inspect counterweight assembly, alignment and cable tensioning/wear.
- e) Inspect door engaging equipment, car and shaft way door top track assemblies, safety interlock switches and operating linkages for physical wear, dirt or other deteriorations. Clean, lubricate, repair and adjust systems when conditions warrant.
- f) Observe condition of upper slow-down, directional and final limit switch devices.

- g) Inspect wire rope conditions and equalization at a minimum of six (6) points in shaft way.
- h) Inspect hoist way landing, leveling and encoding equipment for alignment, operation and physical condition.
- l) Inspect top of car operating station, emergency exit cover, work lighting, auxiliary safety switches, tapes and appurtenances.

15) Pit Area:

- a) Clean and lubricate governor tension sheave assembly. Check weighted clearance. Inspect cable condition.
- b) Observe condition of buffer equipment and mountings, strikers, plates, switches and blocking.
- c) Check stop switch and lighting provisions.
- d) Inspect compensation equipment. Lubricate applicable component parts and check electrical or other safety provisions for physical deteriorations.
- e) Inspect bottom car guides for wear, alignment and tensioning.
- f) Inspect bottom of car, safety mechanism, electrical traveling cables and component hitch connections.
- g) Observe condition of bottom terminal slow-down, directional and final limit switch devices.
- h) Sweep pit area and remove all trash and debris.

16) Miscellaneous:

- a) Check all indicating lights, lanterns, gongs, audible and visible signals for proper operation.
- b) Check all hall push buttons for proper operation.
- c) Verify that mandated emergency operation testing has been performed per local law requirements or governing authority regulations as directed under this Agreement.
- d) Record all inspection and lubrication procedures completed and issue copy of check sheets or other recorded data to Designated Representatives with written recommendations for work procedures to be done by others or an extra cost to the STATE UNIVERSITY OF NEW YORK by the Elevator Contractor.

- 17) Perform immediate repairs/adjustments. Notify the Designated Representatives and schedule major procedures necessitating extended out-of-service time within forty-eight (48) regular working hours of the preventative maintenance inspection

Minimum Semi-Annual (Two times per year)

- 1) Check leveling operation. Clean and adjust leveling switches, hoist way vanes, magnets and inductors. Repair and/or adjust for proper leveling.

- 2) Inspect car-safety mechanism, clean and keep free of rust and dirt, and lubricate as necessary.
- 3) Monitor sequence of operation and compare same to the O.E.M. design specification.
- 4) Check and record individual car performance levels:
 - a) Door open cycle time.
 - b) Door close cycle time.
 - c) Long door non-interference dwell time.
 - d) Short door non-interference dwell time.
 - e) Reduced door non-interference dwell time.
 - f) Brake to brake time.
 - g) Flight time.
 - h) Door closing pressure.
 - i) Tached speed up direction.
 - j) Tached speed down direction.
- 5) Check fire control Phase I and II manual operations in conjunction with ASME A17.1 requirements.
- 6) Check all safety switches for doors, gates or other passenger protection devices.
- 7) Ensure hoist way doors are properly aligned, set and self-closing.
- 8) Check emergency cab interior lighting system and communication device operations.
- 9) Check car door locking, safety switches and passenger protections for proper operation.
- 10) Observe elevator operation for quality of ride, acceleration, deceleration, noise and floor stopping accuracy. Pre-opening, re-leveling or other operational features checked from inside each car.
- 11) Perform immediate minor adjustments or repairs to maintain O.E.M. performance standards.
- 12) Prepare a written report for all examinations performed and issue same to the STATE UNIVERSITY OF NEW YORK.

Minimum Annual

- 1) Check controllers and selectors. Clean with blower, check alignment of switches, relays, timers, contacts, hinge pins, and other controller components, adjust and lubricate. Check all resistance tubes and grids. Check oil in overload relays, settings, and operation of overloads. Clean and inspect fuses and holders and all controller connections.
- 2) In hoist way, examine guide rails, cams and fastenings, hoist and governor wire ropes and counterweight. Inspect and test limit and terminal switches. Check and adjust car shoes, gibs or

roller guides. Adjust or replace as needed. Lubricate hoist wire ropes in accordance with ANSI/ASME A17.1 Section 1206.

- 3) Clean all overhead beams, sills, bottom of platform, car tops and hoist way walls.
- 4) Clean car light fixtures.
- 5) Thoroughly clean car and counterweight guide rails using a nonflammable or high flash point solvent to remove lint, dust and excess lubricant in accordance with ANSI/ASME A17.1 Section 1206.
- 6) Thoroughly clean the machine room, pit, top and bottom of car and all other elevator components and areas.
- 7) Dismantle machine brake assembly. Inspect all pivot pins, bushings, collars, sleeves, guides, bearings or other operating apparatus for wear. Replace worn component parts, provide new spacers, washers, fittings, etc., to ensure unrestrictive operation. Readjust assembly in accordance with O.E.M. design criteria.
- 8) Drain and flush machine housings, oil hydraulic storage tanks, bearings and lubrication parts. Inspect all exposed equipment for wear. Replace worn or damaged bearings, seals, packings and gaskets.
- 9) Blow out or vacuum windings in rotational equipment, inspect apparatus for internal damages, overheating or other deteriorations. Clean and service contaminated brush riggings, inspect bearings and shafts for wear. Apply insulating varnish to exposed windings and ensure all leads, connections or other electrical apparatus are properly insulated. Inspect grounding provisions and take necessary actions to correct deficiencies. Adjust brush settings, compounding and/or other apparatus to ensure proper operation and efficiencies are maintained.
- 10) Inspect all systems in accordance with A17.1, Rule 1002.2 and every fifth (5th) year per Rule 1002.3, 1002.3C and any additional local law.
- 11) Inspect all systems in accordance with A17.1, Rule 1005.1 to 1005.4 at the time intervals specified therein.

Master Maintenance Schedule:

- a) Prior to commencement of services, the Contractor shall formulate it's proposed schedule for the forthcoming year incorporating the "minimum requirements specified herein for all units".
- b) The schedule shall consist of the anticipated "out of service" times for each unit and the procedure to be performed.
- c) Deviations from this master schedule as desired by Contractor or mandated by other building and equipment conditions shall be reported to the Designated Representatives for approval.
- d) When conditions warrant or the Designated Representatives requests a revised schedule be submitted for the balance of the year, the Contractor shall prepare same incorporating the record history of preventative maintenance procedures accomplished prior to the revision.

13. **MAINTENANCE OF ELEVATORS' EQUIPMENT COVERAGE**

At no additional cost to the STATE UNIVERSITY OF NEW YORK, the Contractor shall provide full comprehensive repair, replacement, adjustment and related service coverage for all component systems including spare or replacement parts

unless specifically excluded herein. Failure to provide a particular component, service or other procedure does not limit the Elevator Contractor's obligation or liability to provide the necessary work or service.

The Elevator Contractor shall perform complete maintenance of the elevators to ensure they may be operated safely in accordance with performance standards and other criteria specified in this agreement 24 hours per day, seven (7) days per week except for scheduled preventative maintenance and safety test procedures approved by the STATE UNIVERSITY OF NEW YORK.

The Contractor shall furnish all materials, labor, supplies, parts, equipment barricades, warning signs, semi-permanent structures or other apparatus necessary or proper for and incidental to maintenance procedures.

The following list of equipment is provided as a means to establish the full comprehensive intent of this agreement. Coverage shall include all associated parts, appurtenances and procedures whether specifically defined or not and shall include the necessary hoisting, rigging or other procedures required for execution of the repair, replacement, adjustment and service of equipment covered under this agreement.

(a) Hoisting Machinery Complete:

Geared and gearless units, shafts, bearings, drive sheaves, deflector sheaves, auxiliary sheaves, pulleys, couplings, worms, gears, thrust assemblies, packings, seals, lubrication devices, brake coils, brake shoes, brake drums, brake linkages, brake contactors and all associated sleeves, bushings, "O" rings, castings, hardware, guards, mounting apparatus and support structures, wire ropes and related attachments and supporting elements.

(b) Motors, Motor Generators and Power Drives Complete:

Windings, insulations, lamination, coils, commutators, shafts, bearings, leads, cast members, lubrication devices, seals, gaskets, brush riggings, tensioning devices, carbon brushes, connectors, terminals, rotating elements, stators, armatures, field coils, interpoles, isolation mounts, solid mounts, hardware, solid-state components, isolation transformers, sound chokes, wiring and all control apparatus located outside the primary signal or motion control enclosures necessary or a part of these systems for control and operation.

(c) Hydraulic Systems :

Hydraulic valves, all above ground hydraulic piping, fittings, and seals, hydraulic cylinder packing gland, hydraulic oil in system, hydraulic piston.

(d) Signal and Motion Speed Control Apparatus Complete:

Controllers, dispatching equipment, selectors, selector drives, valve assemblies, encoders, tapes and cables with related driving equipment, tachometers and associated control input and monitoring devices, relays, solid-state devices, microprocessor equipment, resistors, solenoids, grids, insulators, arc shields, leads, coils, timers, protection devices, circuitry, dashpots, condensers, transducers, mounting apparatus, hardware, cabinets and associated regulators, excitors or electrical and mechanical driving equipment with safety switches.

(e) Door Operating and Safety Apparatus Complete: (Car and Hoist way)

Power operators, top track assemblies, hangers, rollers, stops, guides, bumpers, electromechanical interlocks, safety switches, auxiliary door closing mechanisms, clutch engaging devices, safe-edges, photoelectric eye systems, infrared protection systems, power modules, transformers, control apparatus, mechanical locking systems, wiring and all associated mounting or operating apparatus.

(f) Car Equipment:

Frames, safety plank, crosshead, hitch assemblies, safety mechanisms, safety switches, platforms, guides, wire rope connectors and related apparatus, load weighing devices, operating stations, ventilation equipment, exterior work lighting, rope ladders, top and side exit cover locks and switches, toe guards, electrical equipment, cams, rollers, tensioning devices, sheaves, shafts, bearings and auxiliary component systems mounted on or attached to

the elevator car which are not specifically excluded under this agreement.

(g) Hoist way, Secondary and Pit Equipment:

Car and counterweight guide rails, brackets, fishplates, mounting apparatus and hardware. Car and counterweight overspeed governors and related safety apparatus, tension sheave assemblies, guards, wire ropes, switches, wiring and attachment hardware. Wire rope hoisting cables, deflector sheaves, 2:1 sheaves, double-wrap sheaves, shafts, bearings, castings, hardware appurtenances.

Followers, sheaves, cables, switches, and hardware. Buffer assemblies, guides, rollers, extensions, strike plates, mounting apparatus and all related hardware. Electrical wiring, traveling cables, conduits, boxes, terminals, attachment and/or enclosure apparatus, hardware and protection equipment.

Compensation equipment, wire ropes, chains, sheaves, shafts, bearings, weights, cams, switches, castings, attachment and/or mounting hardware with all associated electrical and mechanical apparatus. Counterweight assembly, frames, rods, guides, fillers, support structures, extensions, safety mechanisms, castings and hardware complete. Hoist way facias, guards, dust covers, speed limiting devices, limit switches, landing and leveling apparatus, safety switches, door access provisions, tensioning devices, tapes, cables and auxiliary equipment necessary for operation of other systems covered under this agreement.

(h) Operating and Signal Fixtures Complete:

Car and hall stations, push button devices, visible and audible signals, communication devices inside the cars and wiring in hoist ways, car ventilation equipment, emergency lighting apparatus, direction indicators, floor position indicators, monitors and remote control or recording apparatus together with all associated wiring and systems inside cars, hoist ways and remote areas of the building. Emergency power elevator interlocking controls, lobby stations, signaling and monitoring apparatus, CRT's, keyboards, key switches, toggle switches, indicators and related components.

(i) Hydraulic Systems:

Hydraulic tank, valves, hydraulic fluid, shut-off valves, above ground piping, piston, piston packing gland.

(j) Component Exclusions:

The following elevator components are excluded for normal wear and tear repairs or replacements:

Car enclosures (including removable panels, suspended ceilings, lighting fixtures, light diffusers, floor coverings, entrance thresholds, trim and car panel doors). Hoist way enclosures, entrance frames, door panels and sills.

Machine room power disconnect switches together with fuses, power wiring located before the means of primary disconnect, power fuses or circuit breakers located in the primary means of disconnect, elevator machine room general lighting and ventilation, communication systems outside the elevator enclosures and hoist ways, emergency power switching or other apparatus not included in the elevator control panels or related remote operating and signal stations.

Under ground hydraulic piping and buried hydraulic cylinders, hydraulic pump. Support structures for machine beams or other apparatus normally provided by others and not subject to preventative maintenance procedures by the Elevator Contractor, machine room or other equipment access doors with associated locks and closers.

(k) Subsequent Equipment Modernizations/Alternations/Upgradings:

- 1) Full comprehensive service and repair coverage shall be included under the terms of this agreement when equipment and/or component systems represented herein are modified or upgraded.
- 2) Such changes in equipment necessitating a continuing full maintenance coverage may be initiated by the STATE UNIVERSITY OF NEW YORK under a separate voluntary extra cost upgrading agreement with or

without this Contractor's permission or direct authorization and involvement before the work is performed.

- 3) All non-elective changes or modifications necessitated due to obsolescence, parts unavailability or the Contractor's inability to maintain these systems in accordance with the contract specifications shall be fully covered under this agreement regardless of application, method or cost assignment for the life of the contract.
- 4) Modernized or otherwise upgraded systems and parts thereof shall automatically be included under the terms of this full comprehensive agreement whether such components are specifically identified or not without extra cost to SUNY FREDONIA. The maintenance of which will take place after completion of manufacturer's warranty.

14. **BASIC OPERATING PERFORMANCE STANDARDS FOR INDIVIDUAL PASSENGER ELEVATORS**

The Contractor shall monitor and record the operating performance levels of all elevators per the minimum preventative maintenance procedures specified herein.

- (a) Door open cycle at two (2) FPM, subject to the manufacturer's design criteria.
- (b) Door close cycle at one (1) FPM per code.
- (c) Long door dwell - The non-interference door open duration time that car/corridor doors remain open in response to a corridor call shall be set in accordance with ADA standard 4.10.7.
- (d) Short door dwell - The non-interference door open duration time that car/corridor doors remain open in response to a car call shall be set in accordance with ADA standard 4.10.8.
- (e) Nudging: Reduced door closing speed and force operation initiated in conjunction with an audible signal after an extended door protection device interruption. Set @ 20 to 22 seconds.
- (f) Door close pressure - Measured using compression spring gauge after approximately 1/3 to 1/2 total travel distance of clear opening to determine stall pressure @ maximum 30 lbs. per A17.1 code.
- (g) Leveling accuracy @ sill to sill variance measured at multiple landings under varying load condition in both directions of travel maximum 1/2 inches per ADA standards.
- (h) Car speed shall be maintained at $\pm 5\%$ fpm or original design speed.

15. **PREVENTATIVE MAINTENANCE AND REPAIR PROCEDURES**

- (a) Minimum scheduled preventative maintenance, as specified herein shall be performed as approved by SUNY FREDONIA.
Normal hours for scheduled preventative maintenance work on elevators approved by SUNY FREDONIA shall be 7:00 AM to 5:00 PM on regular working days.
- (b) Observation checks or other procedures which do not require the unit(s) be removed from normal service or in anyway hamper the passenger or freight service operations may be performed at any time of the day subject to the Designated Representative's approval and limitation schedules specified herein.
- (c) During normal working hours of normal working days, the maximum number of elevators which may be out of service in each building for preventative, emergency or other repairs, testing procedures or other work necessitating a reduction in vertical transportation services is limited to the following: A maximum of one (1) passenger elevator in the group as approved by the Designated Representatives.

16. **CONTRACTOR PERSONNEL AND SERVICE STANDARDS**

- (a) Maintenance shall be performed by trained persons, competently supervised, who shall be qualified to keep the elevator equipment adjusted and repaired in a safe operating condition. If any of the Contractor's personnel are not satisfactory to the Designated Representatives in the performance of services to be furnished hereunder, the Contractor shall remove any such personnel and replace them with personnel satisfactory to the Designated Representatives.
- (b) The Contractor shall use all reasonable care consistent with its right to manage and control its operation not to employ any persons or use any labor, or use or have any equipment or permit any condition to exist which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Building which interfere or are likely to interfere with the operation of the Building or with the operations of the Contractor under this agreement.
- (c) The Contractor shall immediately give such notice to the Designated Representatives to be followed by written progress reports as shall be reasonable necessary to advise SUNY FREDONIA of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof that the Contractor, in its opinion, believes may interfere with the normal operation of the Building. The Contractor shall use its best efforts to resolve any such complaint, trouble, dispute or controversy.
- (d) The Contractor shall observe, obey and compel its officers, employees, guests, invitees and those doing business with it to observe and obey the rules and regulations of SUNY FREDONIA in effect for the building and such further reasonable rules and regulations which may from time to time during the effective period of this agreement be promulgated by SUNY FREDONIA for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance of the building or for the safe and efficient operation of the building.

17. **SUPERVISION**

- (a) The Contractor shall assign their own Designated Representatives who shall be in charge of all contractor personnel and services provided under this agreement. The Contractor Designated Representatives shall have the overall responsibility on a 24-hour basis.
- (b) The Contractor shall assign their Designated Representative's assistant(s) or other personnel to ensure the Contractor is properly represented at all times, 7 days per week, 24 hours per day.
- (c) The Contractor's Designated Representatives, assistant Designated Representatives, superintendent, supervisor and/or foreman shall each be authorized by the Contractor to receive and put into effect promptly all orders, directions, or other instructions from SUNY FREDONIA'S Designated Representatives when they are in charge of operations at the building provided such instructions do not adversely affect the agreement nor the safe operations of the equipment or the Contractor's personnel and public safety.
- (d) The Contractor's primary Designated Representatives shall formulate a chain of command and time schedule. During normal working hours, coordination of services shall be directed through the primary Designated Representatives or, when conditions warrant, a designated assistant.
- (e) Subcontracts – Contractors shall be solely responsible for the performance of this contract. The contractor's use of subcontractors shall be allowed with proper approval on projects not covered by this maintenance agreement.
- (f) Contractor is to provide SUNY FREDONIA or its Designated Representatives the names, address and phone numbers of Contractor's Designated Representatives for the duration of this contract.

18. **PARTS AND MATERIALS**

- (a) The Contractor shall prepare and submit to the Designated Representatives a complete spare parts listing for approval. In order to make replacement and repairs as expeditiously as possible, such spare parts shall include components for:
 - 1) Door operating systems and related hardware.
 - 2) Door safety systems including safe-edges.

- 3) Controller and selector parts including dispatch overlays.
 - 4) Selector tapes and related apparatus.
 - 5) Motor and motor generator brushes and hardware.
 - 6) Motor and motor generator bearings. Hydraulic pump motor belts.
 - 7) Car and counterweight roller guides.
 - 8) Standard push buttons, lamps, and related equipment for signal fixtures.
 - 9) Machine seals and packings. Hydraulic packing glands.
 - 10) All required lubricants, cleaning agents, compounds or other materials and equipment required for preventative maintenance procedures specified herein.
- (b) Basic materials, parts and equipment described above for scheduled maintenance procedures and minor emergency callback service repairs shall be stocked within the confines of the building in areas designated and assigned by SUNY FREDONIA.
- (c) Additional parts or other equipment required for maintenance of the systems may be stored at the Contractor's facilities with the understanding delivery of same for emergency procedures must be made within four (4) hours to the job site. Other materials and equipment normally not stocked by the Contractor locally must be available within twenty-four (24) hours for delivery to the job site from remote facilities and/or supplier contractors responsible to the Contractor for stocking the materials or equipment.
- (d) If the requirements for stockage of parts as defined herein are not met on any item, the Contractor shall immediately notify the Designated Representatives in writing as to the circumstances and provide a confirmed delivery date for the required materials and equipment.

19. CALLBACK SERVICE

- (a) "Callback Service" is defined as that time during the day or night that no employees of the Contractor are assigned to or working at the Building, but the Contractor has the obligation to respond to service calls within a reasonable length of time.
- 1) Emergency calls which involved passengers trapped in an elevator, shall be responded to within one (1) hour regardless of time of day, seven (7) days a week, fifty-two(52) weeks a year.
 - 2) Callback service will be provided by the contractor within two hours of the notification 365 day a year except for cars specified in writing by the University's representatives.
 - 3) The serviceman responding under callback service shall investigate any and all elevator stoppages and malfunctions and perform minor repairs and adjustments. As part of callback service, the Contractor agrees to safely and promptly remove the occupants of a stopped elevator. To meet this evacuation requirement, the Contractor shall provide additional personnel as necessary twenty-four (24) hours per day seven (7) days per week including Saturdays, Sundays and Holidays.

20. STATE UNIVERSITY OF NEW YORK'S RIGHT TO MANAGE CONTRACTOR SERVICE AND PERSONNEL

- (a) In addition to the Contractors management and supervision of services specified herein, the STATE UNIVERSITY OF NEW YORK and/or its Designated Representatives shall retain the right to monitor and/or otherwise supervise the actions of the Contractor and services rendered.
- (b) The STATE UNIVERSITY OF NEW YORK and/or its Designated Representatives may employ direct labor for management supervision or indirect outside consultants, inspectors, engineers or other qualified personnel to monitor the maintenance services provided by the Contractor with the understanding that such actions do not

limit the Contractors responsibilities for management of services or supervision of personnel. The state retains the right to inspect all maintenance work under this contract. All inadequate service and any violations found by the inspection will be completed by the contractor within ten (10) working days from receipt of written notification by the inspection company. If the contractor fails to complete the repairs within the ten (10) working days, the contractor shall be responsible for all costs related to follow-up inspections.

- (c) When conditions warrant, in the opinion of the STATE UNIVERSITY OF NEW YORK and/or its Designated Representatives, the Contractor shall provide the necessary labor and/or materials to assist the STATE UNIVERSITY OF NEW YORK or its Designated Representatives to evaluate the services rendered, work performed and equipment conditions.
- (d) Should the STATE UNIVERSITY OF NEW YORK or its Designated Representatives require continued assistance by other than assigned personnel for specified maintenance duties, the Contractor shall be entitled to receive extra financial compensation based on the hourly schedules included herein or a lump sum amount approved by the STATE UNIVERSITY OF NEW YORK for a specific scope of services or assistance requirement.
- (e) There shall be no extra charge to the STATE UNIVERSITY OF NEW YORK for normal coordination of services, scheduling procedures, reporting requirements, testing procedures or other service management and supervision mandated under the terms of this agreement.
- (f) The STATE UNIVERSITY OF NEW YORK and/or its Designated Representatives may request, and receive within twenty-four (24) hours, complete records within two (2) working days, complete records for all services rendered, personnel assigned or other procedures performed by this Contractor. Such records shall become the property of the STATE UNIVERSITY OF NEW YORK and may be retained for future comparison studies or other evaluations of the Contractor's work performance. The Contractor shall maintain such records for a minimum of seven (7) years per state requirements.
- (g) In the event the Contractor changes assigned mechanic, management or supervisory personnel, the STATE UNIVERSITY OF NEW YORK shall retain the right to interview and evaluate all new personnel assigned for direct or indirect management and supervision of this contract work.
- (h) In the event the Contractor union affiliated personnel fail to perform their duties satisfactory to the STATE UNIVERSITY OF NEW YORK and/or its Designated Representatives or display an attitude of discontent that is not conducive to good relationships or proper servicing of the elevator systems, the STATE UNIVERSITY OF NEW YORK may request a position reassignment based on submission of substantial evidence that such Contractor employee is not serving the best interests of the Building and/or the Contractor in performing services specified herein. The Contractor shall honor said request within twenty-four (24) hours of notification and provide labor satisfactory to the STATE UNIVERSITY OF NEW YORK.
- (i) The STATE UNIVERSITY OF NEW YORK reserves the right to purchase related vertical transportation system services, attachments or other appurtenances not covered under the terms of this agreement from other than the maintenance contractor.

The contractor shall cooperate and assist the STATE UNIVERSITY OF NEW YORK in coordination of such projects or acts to insure safe and adequate transportation is provided within the limits of their contractual responsibilities. When conditions warrant, in the opinion of the STATE UNIVERSITY OF NEW YORK, the Contractor shall provide technical assistance to the STATE UNIVERSITY OF NEW YORK upon request.

21. **REPAIRS RESULTING FROM NEGLIGENCE, MISUSE, ACCIDENTS OR ABUSE**

The Contractor shall immediately perform all required repairs and replacements regardless of the cause thereof, except repairs or replacement work which the Contractor deems entitles him to "Extra Work" compensation, which shall not be performed without prior approval of the STATE UNIVERSITY OF NEW YORK or its Designated Representatives.

The Contractor shall be entitled to compensation in addition to that specified in the "Schedule of Prices", only for such portion of the cost of any tests, repairs and replacements as are necessitated directly by negligence, misuse, accidents or abuse which are not the fault of the Contractor as affirmatively demonstrated by him to the sole satisfaction of the STATE UNIVERSITY OF NEW YORK and its Designated Representatives.

In determining the amount of such payment by the STATE UNIVERSITY OF NEW YORK to the Contractor, there shall not be included in the amount of such payment the already depreciated cost of parts required to be repaired or replacement (at the time or ultimately) as part of the Contractor's maintenance obligations without separate payment. Compensation for any repairs or replacements under this paragraph shall be computed as set forth in this paragraph and as set forth in the Section hereof entitled "Extra Work and Compensation for Extra Work."

22. **ADDITIONAL REPORTS BY CONTRACTOR**

- (a) The Contractor shall during the term of this Contract continually render reports of inspections, repairs or replacements made by the Contractor at the premises, itemized as to parts installed or services performed, and supply samples of lubricants, compounds, or other materials employed.
The Contractor shall provide monthly, annual and other reports for procedures specified.
- (b) A complete permanent record of inspections, maintenance, lubrication and callback service for each unit under service will be kept in the appropriate machine room and Engineering Office. These records are to be available to the STATE UNIVERSITY OF NEW YORK and/or its Designated Representatives at all times whether they have been issued to the STATE UNIVERSITY OF NEW YORK and its Designated Representatives.
- (c) The Contractor shall continually maintain a trouble log for each unit. All emergency callback requests, complaints or other problematic conditions as reported by the STATE UNIVERSITY OF NEW YORK'S Designated Representatives shall be recorded. Actions taken, date of inspection and work performance personnel responsible shall be referenced and other pertinent data shall be included in the documentation. A report shall be issued monthly indicating the status of all units referenced in the trouble log.
- (d) The Contractor shall maintain a record of all major repairs or component replacements for each unit. Documentation shall include a brief description of work performed, date(s) and personnel responsible for the corrective or preventative repair procedures.

23. **MEAN TIME BETWEEN SHUTDOWNS**

- (a) On a quarterly basis, Contractor shall calculate the mean time between shutdowns (MTBS) experienced over the prior three (3) month period. Calculation of MTBS shall be as follows: $\text{Number of units} \times \text{Number of days} / \text{Number of shutdowns} = \text{Mean Time Between Shutdowns}$
- (b) MTBS shall be calculated and shall be presented in an easy graph form to the agency representative and chartered over each year of the contract term.
- (c) The contractor shall be responsible to provide a report on each elevator with an MTBS less than 120 days. The report shall include an explanation along with an action plan and a schedule for repairs.
- (d) It shall be the contractor's responsibility to maintain that all elevators and dumbwaiters covered within this contract shall operate properly and safely within the elevator industry standards of 120-day mean time between shutdowns.
- (e) Various other reports shall be provided to the agency representative upon their request.
- (f) It shall be the contractor's responsibility to report all malfunctioning telephone and communication devices to the appropriate agency representative on a monthly basis.

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The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a Contractor, licensor, licensee, lessor, lessee or any other party):

1. **EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. **PROHIBITION AGAINST ASSIGNMENT** Except for the assignment of its right to receive payments subject to Article 5-A of the State Finance Law, the Contractor selected to perform the services herein are prohibited in accordance with Section 138 of the State Finance Law from assigning, transferring, conveying, subletting or otherwise disposing of its rights, title or interest in the contract without the prior written consent of SUNY and attempts to do so are null and void. Notwithstanding the foregoing, SUNY may, with the concurrence of the New York Office of State Comptroller, waive prior written consent of the assignment, transfer, conveyance, sublease or other disposition of a contract let pursuant to Article XI of the State Finance Law if the assignment, transfer, conveyance, sublease or other disposition is due to a reorganization, merger or consolidation of Contractor's its business entity or enterprise and Contractor so certifies to SUNY. SUNY retains the right, as provided in Section 138 of the State Finance Law, to accept or reject an assignment, transfer, conveyance, sublease or other disposition of the contract, and to require that any Contractor demonstrate its responsibility to do business with SUNY.

3. **COMPTROLLER'S APPROVAL.** (a) In accordance with Section 112 of the State Finance Law, Section 355 of New York State Education Law, and 8 NYCRR 316, Comptroller's approval is not required for the following contracts: (i) materials; (ii) equipment and supplies, including computer equipment; (iii) motor vehicles; (iv) construction; (v) construction-related services; (vi) printing; and (vii) goods for State University health care facilities, including contracts for goods made with joint or group purchasing arrangements.

(b) Comptroller's approval is required for the following contracts: (i) contracts for services not listed in Paragraph (3)(a) above made by a State University campus or health care facility certified by the Vice Chancellor and Chief Financial Officer, if the contract value exceeds \$250,000; (ii) contracts for services not listed in Paragraph (3)(a) above made by a State University campus not certified by the Vice Chancellor and Chief Financial Officer, if the contract value exceeds \$50,000; (iii) contracts for services not listed in Paragraph (3)(a) above made by health care facilities not certified by the Vice Chancellor and Chief Financial Officer, if the contract value exceeds \$75,000; (iv) contracts whereby the State University agrees to give something other than money, when the value or reasonably estimated value of such consideration exceeds \$10,000; (v) contracts for real property transactions if the contract value exceeds \$50,000; (vi) all other contracts not listed in Paragraph 3(a) above, if the contract value exceeds \$50,000, e.g. SUNY acquisition of a business and New York State Finance Article 11-B contracts and (vii) amendments for any amount to contracts not listed in Paragraph (3)(a) above, when as so amended, the contract exceeds the threshold amounts stated in Paragraph (b) herein. However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

(c) Any contract that requires Comptroller approval shall not be valid, effective or binding upon the

State University until it has been approved by the Comptroller and filed in the Comptroller's office.

4. **WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. **NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation

6. **WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by SUNY of any SUNY-approved sums due and owing for work done upon the project.

7. **NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based on the submission of competitive bids, Contractor affirms, under penalty of perjury, and each person signing on behalf of Contractor, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered it to SUNY a non-collusive bidding certification on Contractor's behalf.

8. **INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 *et seq.*) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR 105.4).

9. **SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State, its representatives, or the State Comptroller.

10. **RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as SUNY and its representatives and entities involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. SUNY shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under

Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate SUNY official, in writing, that said Records should not be disclosed; and (ii) said Records shall be sufficiently identified; and (iii) designation of said Records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, SUNY's or the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

Identification Number(s). Every invoice or New York State Claim for Payment submitted to the State University of New York by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State University of New York is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the State University of New York contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

(a) In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(1) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or

continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(2) at SUNY's request, Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(3) Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(b) Contractor will include the provisions of "1", "2" and "3", above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a Contractor or sub-contractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. SUNY shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, SUNY shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. **CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Exhibit A, the terms of this Exhibit A shall control.

14. **GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. **LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. **NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized) but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. **SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of

process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. **PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165 (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with the approval of the State, otherwise, the bid may not be considered responsive. Under bidder certification, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. **MacBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that Contractor and any individual or legal entity in which the Contractor holds a ten percent or greater ownership interest and any individual or legal entity that holds a ten percent or greater ownership interest in the Contractor either (a) have no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165(5) of the State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. **OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
30 South Pearl St., 7th Floor
Albany, NY 12245
Tel: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414

email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York

State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to SUNY;

(b) The Contractor has complied with the Federal Equal Employment Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Search Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that SUNY may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with SUNY in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act of 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. Contact the NYS Department of Economic Development, Division for Small Business, 30 South Pearl Street, Albany, New York 12245, for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation,

research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal or similar services, then in accordance with Section 163(4-g) of the State Finance Law, the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to SUNY, the Department of Civil Service and the State Comptroller.

24. PURCHASES OF APPAREL AND SPORTS EQUIPMENT. In accordance with State Finance Law Section 165(7), SUNY may determine that a bidder on a contract for the purchase of apparel or sports equipment is not a responsible bidder as defined in State Finance Law Section 163 based on (a) the labor standards applicable to the manufacture of the apparel or sports equipment, including employee compensation, working conditions, employee rights to form unions and the use of child labor; or (b) bidder's failure to provide information sufficient for SUNY to determine the labor conditions applicable to the manufacture of the apparel or sports equipment.

25. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

26. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the Contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or SUNY discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if

SUNY determines that such action is in the best interests of the State.

27. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:

<http://www.ogs.ny.gov/about/reqs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

THE FOLLOWING PROVISIONS SHALL APPLY ONLY TO THOSE CONTRACTS TO WHICH A HOSPITAL OR OTHER HEALTH SERVICE FACILITY IS A PARTY

28. Notwithstanding any other provision in this contract, the hospital or other health service facility remains responsible for insuring that any service provided pursuant to this contract complies with all pertinent provisions of Federal, state and local statutes, rules and regulations. In the foregoing sentence, the word "service" shall be construed to refer to the health care service rendered by the hospital or other health service facility.

29. (a) In accordance with the 1980 Omnibus Reconciliation Act (Public Law 96-499), Contractor hereby agrees that until the expiration of four years after the furnishing of services under this agreement, Contractor shall make available upon written request to the Secretary of Health and Human Services, or upon request, to the Comptroller General of the United States or any of their duly authorized representatives, copies of this contract, books, documents and records of the Contractor that are necessary to certify the nature and extent of the costs hereunder.

(b) If Contractor carries out any of the duties of the contract hereunder, through a subcontract having a value or cost of \$10,000 or more over a twelve-month period, such subcontract shall contain a clause to the effect that, until the expiration of four years after the furnishing of such services pursuant to such subcontract, the subcontractor shall make available upon written request to the Secretary of Health and Human Services or upon request to the Comptroller General of the United States, or any of their duly authorized representatives, copies of the subcontract and books, documents and records of the subcontractor that are necessary to verify the nature and extent of the costs of such subcontract.

(c) The provisions of this section shall apply only to such contracts as are within the definition established by the Health Care Financing Administration, as may be amended or modified from time to time.

1. DEFINITIONS. The following terms shall be defined in accordance with Section 310 of the Executive Law:

STATE CONTRACT herein referred to as "State Contract", shall mean: (a) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars (\$25,000.00), whereby the State University of New York ("University") is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or a combination of the foregoing, to be performed for, or rendered or furnished to the University; (b) a written agreement in excess of one hundred thousand dollars (\$100,000.00) whereby the University is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; and (c) a written agreement in excess of one hundred thousand dollars (\$100,000.00) whereby the University as an owner of a state assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project.

SUBCONTRACT herein referred to as "Subcontract", shall mean any agreement for a total expenditure in excess of \$25,000 providing for services, including non-staffing expenditures, supplies or materials of any kind between a State agency and a prime contractor, in which a portion of the prime contractor's obligation under the State contract is undertaken or assumed by a business enterprise not controlled by the prime contractor.

WOMEN-OWNED BUSINESS ENTERPRISE herein referred to as "WBE", shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (a) at least fifty-one percent (51%) owned by one or more United States citizens or permanent resident aliens who are women; (b) an enterprise in which the ownership interest of such women is real, substantial and continuing; (c) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; (d) an enterprise authorized to do business in this state and independently owned and operated; (e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars (\$3,500,000), as adjusted annually on the first of January for inflation according to the

consumer price index of the previous year; and (f) an enterprise that is a small business pursuant to subdivision twenty of this section.

A firm owned by a minority group member who is also a woman may be certified as a minority-owned business enterprise, a women-owned business enterprise, or both, and may be counted towards either a minority-owned business enterprise goal or a women-owned business enterprise goal, in regard to any Contract or any goal, set by an agency or authority, but such participation may not be counted towards both such goals. Such an enterprise's participation in a Contract may not be divided between the minority-owned business enterprise goal and the women-owned business enterprise goal.

MINORITY-OWNED BUSINESS ENTERPRISE herein referred to as "MBE", shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (a) at least fifty-one percent (51%) owned by one or more minority group members; (b) an enterprise in which such minority ownership is real, substantial and continuing; (c) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; (d) an enterprise authorized to do business in this state and independently owned and operated; (e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars (\$3,500,000.00), as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (f) an enterprise that is a small business pursuant to subdivision twenty of this section.

MINORITY GROUP MEMBER shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups: (a) Black persons having origins in any of the Black African racial groups; (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race; (c) Native American or Alaskan native persons having origins in any of the original peoples of North America. (d) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian Subcontinent or Pacific Islands.

CERTIFIED ENTERPRISE OR BUSINESS shall mean a business verified as a minority or women-owned business enterprise pursuant to section 314 of the Executive Law. A business enterprise which has been approved by the New York Division of Minority & Women

Business Development ("DMWBD") for minority or women-owned enterprise status subsequent to verification that the business enterprise is owned, operated, and controlled by minority group members or women, and that also meets the financial requirements set forth in the regulations.

2. TERMS. The parties to the attached State Contract agree to be bound by the following provisions which are made a part hereof (the word "Contractor" herein refers to any party other than the University:

(a) Contractor and its Subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. For these purposes, affirmative action shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

(b) Prior to the award of a State Contract, the Contractor shall submit an equal employment opportunity (EEO) policy statement to the University within the time frame established by the University.

(c) As part of the Contractor's EEO policy statement, the Contractor, as a precondition to entering into a valid and binding State Contract, shall agree to the following in the performance of the State Contract: (i) The Contractor will not discriminate against any employee or applicant for employment, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State Contracts; (ii) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the State Contract, all qualified applicants will be afforded equal employment opportunities without discrimination; (iii) At the request of the University the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate, and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

(d) Form 108 - Staffing Plan To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by

the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

(e) Form 112 - Workforce Employment Utilization Report ("Workforce Report")

(i) Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to SUNY of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.

(ii) Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.

(iii) In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

(f) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(g) The Contractor shall include the provisions of this section in every Subcontract in such a manner that the requirements of the provisions will be binding upon each Subcontractor as to work in connection with the State Contract, including the requirement that Subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and, when requested, provide to the Contractor information on the ethnic background, gender, and Federal occupational categories of the employees to be utilized on the State Contract.

(h) To ensure compliance with the requirements of this paragraph, the University

shall inquire of a Contractor whether the work force to be utilized in the performance of the State Contract can be separated out from the Contractor's and/or Subcontractors' total work force and where the work of the State Contract is to be performed. For Contractors who are unable to separate the portion of their work force which will be utilized for the performance of this State Contract, Contractor shall provide reports describing its entire work force by the specified ethnic background, gender, and Federal Occupational Categories, or other appropriate categories which the agency may specify.

(i) The University may require the Contractor and any Subcontractor to submit compliance reports, pursuant to the regulations relating to their operations and implementation of their affirmative action or equal employment opportunity program in effect as of the date the State Contract is executed.

(j) If a Contractor or Subcontractor does not have an existing affirmative action program, the University may provide to the Contractor or Subcontractor a model plan of an affirmative action program. Upon request, the Director of DMWBD shall provide a contracting agency with a model plan of an affirmative action program.

(k) Upon request, DMWBD shall provide the University with information on specific recruitment sources for minority group members and woman, and contracting agencies shall make such information available to Contractors

3. Contractor must provide the names, addresses and federal identification numbers of certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State Contract and a description of the Contract scope of work which the Contractor intends to structure to increase the participation by Certified minority- and/or women-owned business enterprises on the State Contract, and the estimated or, if known, actual dollar amounts to be paid to and performance dates of each component of a State Contract which the Contractor intends to be performed by a certified minority- or woman-owned business enterprise. In the event the Contractor responding to University solicitation is joint venture, teaming agreement, or other similar arrangement that includes a minority-and women owned business enterprise, the Contractor must submit for review and approval: i. the name, address, telephone number and federal identification of each partner or party to the agreement; ii. the federal identification number of the joint venture or entity established to respond to the solicitation, if applicable; iii. A copy of the joint venture, teaming or other similar arrangement which describes the percentage of interest owned by each party to the agreement and the value added by each party; iv. A copy of the mentor-protégé agreement between the parties, if applicable, and if not described in the joint venture, teaming agreement, or other similar arrangement.

4. PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN.

The University shall determine whether Contractor has made conscientious and active efforts to employ and utilize minority group members and women to perform this State Contract based upon an analysis of the following factors:

(a) Whether Contractor established and maintained a current list of recruitment sources for minority group members and women, and whether Contractor provided written notification to such recruitment sources that contractor had employment opportunities at the time such opportunities became available.

(b) Whether Contractor sent letters to recruiting sources, labor unions, or authorized representatives of workers with which contractor has a collective bargaining or other agreement or understanding requesting assistance in locating minority group members and women for employment.

(c) Whether Contractor disseminated its EEO policy by including it in any advertising in the news media, and in particular, in minority and women news media.

(d) Whether Contractor has attempted to provide information concerning its EEO policy to Subcontractors with which it does business or had anticipated doing business.

(e) Whether internal procedures exist for, at a minimum, annual dissemination of the EEO policy to employees, specifically to employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions. Such dissemination may occur through distribution of employee policy manuals and handbooks, annual reports, staff meetings and public postings.

(f) Whether Contractor encourages and utilizes minority group members and women employees to assist in recruiting other employees.

(g) Whether Contractor has apprentice training programs approved by the N.Y.S. Department of Labor which provides for training and hiring of minority group members and women.

(h) Whether the terms of this section have been incorporated into each Subcontract which is entered into by the Contractor.

5. PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES.

Based upon an analysis of the following factors, the University shall determine whether Contractor has made good faith efforts to provide for meaningful participation by minority-owned and women-owned business enterprises which have been certified by DMWBD:

(a) Whether Contractor has actively solicited bids for Subcontracts from qualified M/WBEs, including those firms listed on the Directory of Certified Minority and Women-Owned Business Enterprises, and has documented its good faith efforts towards meeting minority and women owned business enterprise utilization plans by providing,

copies of solicitations, copies of any advertisements for participation by certified minority- and women-owned business enterprises timely published in appropriate general circulation, trade and minority- or women-oriented publications, together with the listing(s) and date(s) of the publications of such advertisements; dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the University, with certified minority- and women-owned business enterprises, and the reasons why any such firm was not selected to participate on the project.

(b) Whether Contractor has attempted to make project plans and specifications available to firms who are not members of associations with plan rooms and reduce fees for firms who are disadvantaged.

(c) Whether Contractor has utilized the services of organizations which provide technical assistance in connection with M/WBE participation.

(d) Whether Contractor has structured its Subcontracts so that opportunities exist to complete smaller portions of work.

(e) Whether Contractor has encouraged the formation of joint ventures, partnerships, or other similar arrangements among Subcontractors.

(f) Whether Contractor has requested the services of the Department of Economic Development (DED) to assist Subcontractors' efforts to satisfy bonding requirement.

(g) Whether Contractor has made progress payments promptly to its Subcontractors.

(h) Whether the terms of this section have been incorporated into each Subcontract which is entered into by the Contractor. It shall be the responsibility of Contractor to ensure compliance by every Subcontractor with these provisions.

6. MWBE Utilization Plan.

(a) The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan prior to the execution of the contract.

(b) MWBE Utilization Plan (Form 7557-107). Contractors are required to submit a Utilization Plan on Form 7557-107 with their bid or proposal. Complete the following steps to prepare the Utilization Plan:

- i. list NYS Certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State contract;
- ii. insert a description of the contract scope of work which the Contractor intends to structure to increase the participation by NYS Certified minority- and women-owned enterprises on the State contract;
- iii. insert the estimated or, if known, actual dollar amounts to be paid to and performance dates of each component of a State contract which the Contractor intends to be performed by a NYS Certified minority- or women-owned business; and

(c) Any modifications or changes to the agreed participation by NYS Certified MWBEs after the Contract Award and during the term of the contract must be reported on a revised MWBE Utilization Plan and submitted to the SUNY University-wide MWBE Program Office.

(d) The University will review the MWBE Utilization Plan and will issue the Contractor a written notice of acceptance or deficiency within twenty (20) day of its receipt. A notice of deficiency shall include the:

- i. list NYS Certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State contract;
- ii. name of any MWBE which is not acceptable for the purpose of complying with the MWBE participation goals;
- iii. reasons why it is not an acceptable element of the Contract scope of work which the MWBE Program Office has determined can be reasonably structured by the Contractor to increase the likelihood of participation in the Contract by MWBEs; and
- iv. other information which the MWBE Program Office determines to be relevant to the MWBE Utilization Plan.

(e) The Contractor shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the University a written remedy in response to the notice of deficiency.

i. If the written remedy that is submitted is not timely or is found to be inadequate, the University-wide MWBE Program Office shall notify the Contractor and direct the Contractor to submit, within five (5) business days, a request for partial or total waiver of MWBE participation goals on forms provided by the University-wide MWBE Program Office.

ii. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

(f) The University may disqualify a Contractor as being non-responsive under the following circumstances:

- i. If a Contractor fails to submit a MWBE Utilization Plan;
- ii. If a Contractor fails to submit a written remedy to a notice of deficiency in a MWBE Utilization Plan;
- iii. If a Contractor fails to submit a request for waiver; or
- iv. If the MWBE Program Office determines that the Contractor has failed to document Good Faith Efforts.

(g) Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.

(h) Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of

such a material breach, SUNY shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

7. Waivers.

(a) For Waiver Requests Contractor should use (Form 7557-114) – Waiver Request.

(b) If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete the University shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

(c) If University, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the University may issue a notice of deficiency to the Contractor. The contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

8. Quarterly MWBE Contractor Compliance Report.

Contractor is required to submit a Quarterly MWBE Contractor Compliance Report (Form 7557-114) to the University by the 5th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

9. GOALS. (a) GOALS FOR MINORITY AND WOMEN WORK FORCE PARTICIPATION.

(i) The University shall include relevant work force availability data, which is provided by the DMWBD, in all documents which solicit bids for State Contracts and shall make efforts to assist Contractors in utilizing such data to determine expected levels of participation for minority group members and women on State Contracts.

(ii) Contractor shall exert good faith efforts to achieve such goals for minority and women's participation. To successfully achieve such goals, the employment of minority group members and women by Contractor must be substantially uniform during the entire term of this State Contract. In addition, Contractor should not participate in the transfer of employees from one employer or project to another for the sole purpose of achieving goals for minority and women's participation.

(b) **GOALS FOR MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES PARTICIPATION.** For all State Contracts in excess of \$25,000.00 whereby the University is committed to expend

or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or a combination of the foregoing or all State Contracts in excess of \$100,000.00 whereby the University is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon, Contractor shall exert good faith

efforts to achieve a participation goal of fifteen percent (15%) for Certified Minority-Owned Business Enterprises and fifteen percent (15%) for Certified Women-Owned Business Enterprises.

10. ENFORCEMENT. The University will be responsible for enforcement of each Contractor's compliance with these provisions. Contractor, and each Subcontractor, shall permit the University access to its books, records and accounts for the purpose of investigating and determining whether Contractor or Subcontractor is in compliance with the requirements of Article 15-A of the Executive Law. If the University determines that a Contractor or Subcontractor may not be in compliance with these provisions, the University may make every reasonable effort to resolve the issue and assist the Contractor or Subcontractor in its efforts to comply with these provisions. If the University is unable to resolve the issue of noncompliance, the University may file a complaint with the DMWBD.

Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, remedies or enforcement proceedings as allowed by the Contract.

11. DAMAGES FOR NON COMPLIANCE. Where the University determines that Contractor is not in compliance with the requirements of the Contract and Contractor

refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay liquidated damages to the University. Such liquidated damages shall be calculated as an amount equaling the difference between:

- a. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
- b. All sums actually paid to MWBEs for work performed or materials supplied under the Contract. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the University, Contractor shall pay such liquidated damages to the University within sixty (60) days after such damages are assessed, unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the University.